RULES of PRACTICE in PATENT CASES

UNITED STATES PATENT OFFICE

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Introduction

THE UNITED STATES PATENT OFFICE

ESTABLISHMENT. The Patent Office was established to administer the patent laws enacted by Congress in accordance with article I, section 8, of the Constitution. The first of these laws was enacted April 10, 1790 (1 Stat. 109), but the Patent Office as a distinct bureau, in the Department of State, dates from the year 1802, when an official who became known as the Superintendent of Patents was placed in charge. The general revision of the patent laws enacted July 4, 1836 (5 Stat. 117), reorganized the Patent Office and designated the official in charge as Commissioner of Patents. Another general revision of the patent laws was made in 1870, and since that date numerous acts of Congress relating to patents were passed, until they were revised and codified, effective January 1, 1953, as title 35 of the United States Code. The Patent Office also administers the Federal trademark laws (title 15, secs. 1051 to 1127 of the United States Code). The Patent Office was transferred from the Department of the Interior, in which Department it had been since 1849, to the Department of Commerce by Executive order on April 1, 1925, in accordance with the authority contained in the act of February 14, 1903 (32 Stat. 830). The Patent Office is located in Washington, D.C.

FUNCTIONS. The chief functions of the Patent Office are to administer the patent laws as they relate to the granting of letters patent for inventions, and to perform other duties relating to patents. It examines applications for patents to ascertain if the applicants are entitled to patents under the law, and grants the patents when they are so entitled; it publishes issued patents and various publications concerning patents and patent laws, records assignments of patents, maintains a search room for the use of the public to examine issued patents and records, supplies copies of records and other papers, supplies information concerning patents, and the like. Analogous and similar functions are performed with respect to the registration of trademarks.

GENERAL ORGANIZATION. The Patent Office is organized in the Office of the Commissioner of Patents (see Sec. 1), the Office of the Solicitor (see Sec. 2), the Board of Appeals (see Sec. 3), the Board of Patent Interferences (see Sec. 4), the Patent Examining Operation (see Sec. 5), the Office of Research and Development (see Sec. 6), the Office of Information Services (see Sec. 7), the Office of Planning and Program Evaluation (see Sec. 8), the Office of Legislative Planning (see Sec. 9), the Office of International Patent and Trademark Affairs (see Sec. 10), and the Office of Administration (see Sec. 11). With respect to Trademarks, there is the Trademark Examining Operation, and the Trademark Trial and Appeal Board. Various offices and divisions are described in greater detail in the following paragraphs but administrative or internal matters are omitted or mentioned only briefly.

1. Office of Commissioner of Patents. This office comprises the Commissioner of Patents, a First Assistant Commissioner of Patents, and two Assistant Commissioners of Patents. As head of the Patent Office, the Commissioner of Patents superintends or performs all duties respecting the granting and issuing of patents and the registration of trademarks; exercises general supervision over the entire work of the Patent Office; prescribes the rules, subject to the approval of the Secretary of Commerce, for the conduct of proceedings in the Patent Office and for recognition of attorneys and agents; decides various questions brought before him by petition as prescribed by the rules, and performs other duties necessary and required for the administration of the Patent Office and the performance of its functions. The Commissioner also prescribes rules governing the registration of trademarks and hears appeals in trademark cases. The Assistant Commissioners perform such of the foregoing duties pertaining to the Office of Commissioner as may be assigned by the Commissioner, with the same authority as the Commissioner. One of them serves as Acting Commissioner in the temporary absence of the Commissioner.

2. Solicitor and Law Examiners. The Office of the Solicitor comprises the Solicitor, Deputy Solicitor, and law examiners who constitute the legal staff of the Commissioner. They have charge of litigation in which the Patent Office is a party, acting as counsel in appeals to the United States Court of Customs and Patent Appeals and in suits against the Commissioner; investigate legal and legislative matters for the Commissioner; develop and present to the Commissioner evidence in proceedings for disbarment and suspension of attor-

neys and agents from practice before the Patent Office; edit the legal portion of the Official Gazette; and perform such other duties in matters coming before the Commissioner as he may assign.

3. Board of Appeals. The Commissioner, Assistant Commissioners, and not more than fifteen examiners-in-chief constitute a Board of Appeals whose duty is to hear and decide appeals from adverse decisions of examiners upon applications for patents. Each appeal is heard and considered by at least three members of the Board of Appeals. Their decisions are reviewable by the courts.

4. The Board of Patent Interferences. The Board of Patent Interferences consists of such examiners of patent interferences as may be appointed by the Commissioner, who designates one of them to act as Chairman. Three members constitute a Board of Patent Interferences in determining each question of priority. Intermediate questions and matters of procedure may be determined by a single examiner of interference. The decisions of the Board of Patent Interferences on the question of priority are reviewable by the courts.

5. The Patent Examining Operation. This organization consists of an Office of Examining Control, an Office of Patent Classification, four Examining Operations, and the Scientific Library which are under the direction of an Assistant Commissioner of Patents. (A Superintendent who serves as one of the principle immediate assistants to the Commissioner in administering the Patent Office.)

(1) The Office of Examining Control develops procedures and quality and quantity standards relating to the conduct of the examining function, evaluates examiner compliance with such standards, trains new examiners in patent practice and procedure, and issues instructions regarding examining procedures.

(2) The Office of Patent Classification is responsible for developing and maintaining a system for the classification of patents in various useful arts as an aid for examiners and the public in making searches and for insuring the effective use of this system in the classification of issued patents.

(3) Each of four Examining operations, respectively, the Chemical, Electrical, Mechanical Engineering, and General Engineering and Industrial Arts, examines patent applications coming within its generic category. An Examining Operation is headed by a Director who is in charge of a number of groups, each representing a broad field of invention within a generic category and having jurisdiction over several examining subdivisions representing art groupings. The examiners within these groups perform the work of examining applications for patents and determine whether patents can be granted. This constitutes the largest and most important function of the Patent Office. The examining function includes determining whether two or more

applications or an application and a patent contain interfering subject matter and deciding certain preliminary questions raised by the contestants.

An appeal can be taken to the Board of Appeals from the refusal of an examiner to allow a patent on any or all of the claims of an application and a review by the Commissioner of Patents may be had on other matters.

(4) The Scientific Library is responsible for obtaining and bringing pertinent technical and scientific information to the attention of patent and trademark examiners and serves as a repository and document reproduction source for a large collection of scientific and technical books and periodicals, official journals of foreign patent offices, and approximately 10 million foreign patents.

6. The Office of Research and Development. The Director of the Office of Research and Development directs and coordinates a research program concerned with developing a mechanized system for searching recorded knowledge and retrieving information for determining the patentable novelty of claimed inventions.

7. The Office of Information Services. The Director of the Office of Information Services serves as an adviser to and represents the Commissioner on public information matters, and conducts information programs fostering public knowledge of and benefit from the American patent system and the functions and services of the Patent Office.

8. The Office of Planning and Program Evaluation. Develops overall Patent Office plans and evaluates the effectiveness of various segments of the Patent Office in their implementation of these plans.

9. The Office of Legislative Planning. Makes studies and advises the Commissioner on matters which may require legislative action and prepares necessary legislation and supporting reports.

10. The Office of International Patent and Trademark Affairs. Makes studies and advises on policy and action concerning international patent and trademark matters.

11. The Office of Administration. The Director of the Office of Administration serves as the principal assistant and adviser to the Commissioner on all administrative matters. He is responsible for all administrative functions conducted in support of the substantive operations of the Patent Office, which includes the following service and administrative divisions:

A. Budget and Finance Division:
   (1) Budget Branch
   (2) Finance Branch (see Sec. 12)
B. Management and Organization Division
C. Personnel Division

D. General Services Division:
(1) Application Branch (see Sec. 13)
(2) Assignment Branch (see Sec. 14)
(3) Correspondence and Mail Branch (see Sec. 15)
(4) Docket Branch (see Sec. 16)
(5) Drafting Branch (see Sec. 17)
(6) Issue and Gazette Branch (see Sec. 18)
(7) Data Processing Branch
(8) Document Services Branch (see Sec. 19)
(9) Office Services Branch
(10) Patent Copy Sales Branch (see Sec. 20)
(11) Patent Reference Branch (see Sec. 21)
E. Internal Audit Division

12. Finance Branch. The Finance Branch is headed by a finance officer who receives and accounts for all fees paid into the Patent Office and deposits them in the United States Treasury. Coupons redeemable for copies of patents and other papers are sold, and deposit accounts for the payment of certain charges are maintained. This Branch also has charge of refunding money paid by mistake or in excess.

13. Application Branch. The Application Branch receives, records and acknowledges all application for patents when they are filed. Upon receipt of an application, the papers are scrutinized to see if the application is complete in all its parts and complies with certain formal requirements. If the papers are not sufficiently complete to be accepted as an application for patent, the applicant is notified of the deficiencies and the papers are held for completion. If it is complete, the application (the papers being placed in a jacket or file) is given a serial number and filing date, indexed, and (after the drawing has been inspected by the Drafting Branch) sent to the particular examining group having charge of the subject matter of the application.

14. Assignment Branch. The Assignment Branch receives and records assignments transferring property rights in patents and trademarks, and applications for the same. After the assignments are recorded, they are returned to the senders. The Branch also makes searches of the titles to patents and trademarks and furnishes abstracts of titles. Digests and indexes are made of all assignments in order to facilitate title searches. These are available to the public. The Assignment Branch also maintains a Register of Government Interests in Patents for the use of the Government but part of this register is available to public inspection.

15. Correspondence and Mail Branch. The Correspondence and Mail Branch opens and distributes all official mail and sees to it that all remittances are deposited with the finance officer. It has custody

of the general correspondence not relating to particular applications for patents. Some routine inquiries are answered by circular letter sent out by this branch.

16. Docket Branch. The Docket Branch has custody of patent dockets for the Commissioner, the files in interference cases except when they are in use by the examiners, and papers in cases appealed to the Court of Customs and Patent Appeals. Papers filed in such cases go to the docket clerk who enters them and is responsible for their custody and distribution. This Branch also handles correspondence relating to the revocation of powers of attorney or authorization of agents.

17. Drafting Branch. The Drafting Branch inspects the drawings accompanying applications for patents and for registration of trademarks to insure compliance with the formal rules relating to drawings and minimum standards of execution. It also prepares new drawings from sketches or models when ordered by an applicant, and makes corrections in drawings on file.

18. Issue and Gazette Branch. This Branch has the duty of attending to the details of issuing the patents after the applications have been allowed by the examiner. It prepares the specifications for printing and supervises the printing which is done at the Government Printing Office. It also prepares the drawings for photolithographing and supervises this work. It takes care of the numbering, dating, indexing, and recording of patents when granted, and prepares and mails the formal grants. The preparation for printing of the Official Gazette of the United States Patent Office with its indexes, the annual volumes of Decisions of the Commissioner of Patents, and other publications, are also functions of this Branch.

19. Document Services Branch. This Branch has charge of furnishing to the public copies of records of the Patent Office. It makes photographic copies of records, books, patents, etc., and also typewritten copies of manuscripts. It also prepares certified copies of patents and other papers to be authenticated under the seal of the Patent Office.

20. Patent Copy Sales Branch. This Branch has charge of the storage and sale of printed copies of patents and trademark registrations.

21. Patent Reference Branch. The Patent Reference Branch maintains a Search Room for use by the public in searching and examining United States patents. It contains a set of United States patents granted since 1836 arranged according to the Patent Office classification. By searching in these classified patents, it is possible to determine, before actually filing an application, whether an invention has been anticipated by a United States patent, and it is also possible to obtain the information contained in the patents relating to any field of endeavor.

Attached to the search room is a record room in which the public may inspect the records and files of issued patents and such other records as may be open to their inspection. The record room contains a set of United States patents arranged in numerical order and a complete set of the Official Gazette.

Parties and their attorneys or agents may examine their own cases in the record room and public records may be examined in the record room, search room, or library, as the case may be. Parties, their attorneys or agents, and the general public are not entitled to use the records and files in the examiner's rooms.

The search room and Scientific Library are open during office hours from 8:30 a.m. to 5 p.m. on workdays, and in addition, the search room is open evenings from 5 p.m. to 9 p.m. on workdays, and on Saturdays from 8:30 a.m. to 12:30 p.m.

PUBLICATIONS OF THE PATENT OFFICE. (a) *Patents.* The specification and accompanying drawings of all patents are published on the day they are granted and copies are sold to the public by the Patent Office. The specifications are initially printed at the Government Printing Office and the drawings photolithographed by contractors.

(b) *Trademarks.* Copies of trademark registrations are also printed and sold by the Patent Office.

(c) *Official Gazette of the United States Patent Office.* This publication is the official journal relating to patents and trademarks. It has been published weekly since January 1872 (replacing the old Patent Office Reports), and is now issued each Tuesday, simultaneously with the issue of the patents. It contains a claim and a selected figure of the drawings of each patent granted on that day, an illustration of each trademark published for opposition, a list of trademarks registered, and other trademark information; decisions in patent and trademark cases rendered by the courts and the Patent Office; notices of patent and trademark suits; indexes of patents and patentees; disclaimers filed; lists of patents available for licensing or sale; and much general information such as orders, notices, changes in rules, changes in classification, etc.

The Official Gazette is sold, by annual subscription and in single copies, by the Superintendent of Documents. The pages containing the decisions and other information, and those containing trademark material, are separately stitched and may be purchased independently of the remainder of the Gazette.

(d) *Annual Indexes.* An Index of Patents, is issued annually, and summarizes information contained in issues of the Official Gazette published during the preceding calendar year. The Index contains an alphabetical list of patentees; a list of patents arranged by class and subclass, issued during the year, so that patents in any given sub-

class may be systematically reviewed; and lists of disclaimers and decisions published in the Official Gazette during the calender year. An Index of Trademarks, also issued annually, contains an alphabetical index of trademark registrants, trademark registration numbers, trademark publication dates, classification of goods for which registered and decisions published during the calendar year.

(e) *Decisions of the Commissioner of Patents.* There is issued annually a volume republishing the decisions which have been published weekly in the Official Gazette. Copies are sold by the Superintendent of Documents.

(f) *Manual of Classification.* This publication is a loose-leaf book containing a list of all the classes and subclasses of inventions in the Patent Office patent classification system, a subject-matter index, and other information relating to classification. Substitute pages are issued from time to time and are sent to purchasers of the Manual under a subscription arrangement.

(g) *Classification Bulletins.* Classification Bulletins are prepared for each of the more than 300 classes of patent information. Each bulletin contains definitions, or scope notes, for the class covered by the bulletin, and defines all the appropriate subclasses within the class. The bulletins supplement the Manual of Classification and serve to illustrate the kinds of information or patents that can be found in each class or subclass. Copies of the bulletins are sold by the Patent Office and the Superintendent of Documents, Government Printing Office. A list identifying the bulletins currently available can be obtained from the Patent Office on request.

(h) *Patent Laws.* A compilation of the patent laws in force; revised editions are published from time to time.

(i) *Rules of Practice of the U.S. Patent Office.* This publication contains the rules governing the procedure in the Patent Office, which have been adopted by the Commissioner under the authority of the patent statutes and approved by the Secretary of Commerce, and supplementory material including forms.

(j) *How to Obtain Information From United States Patents.* This pamphlet contains much helpful information on how to best utilize the facilities and publications of the United States Patent Office. It gives the inventor instructions on such subjects as how to make a patent search, use of the *Official Gazette*, and obtaining information from Patent Copy Libraries.

(k) *Trademark Rules of Practice of the United States Patent Office With Forms and Statutes.* This publication contains the rules governing the procedure in the Patent Office in trademark matters and a compliation of trademark laws in force.

(l) *General Information Concerning Patents.* This pamphlet is designed for the layman and contains a large amount of general

information concerning the granting of patents expressed in non-technical language.

(m) *General Information Concerning Trademarks.* This pamphlet serves the same purpose with reference to trademarks as the preceding does concerning patents.

(n) *Patent Attorneys and Agents Available To Represent Inventors Before the U.S. Patent Office Arranged by States and Countries.* A listing of those registered patent attorneys and agents who are available to accept employment by inventors. It includes the names of those who are full-time employees of corporations who have stated that they are, nevertheless, free to represent clients other than their employers.

(o) *Roster of Attorneys and Agents Registered To Practice Before the U.S. Patent Office.* This list of registered attorneys and agents, arranged alphabetically, is sold by the Superintendent of Documents.

(p) *Patents and Inventions.* An information aid for inventors in deciding whether to apply for patents, in obtaining patent protection and in promoting their inventions.

(q) *Guide for Patent Draftsmen.* This pamphlet contains illustrative material which may be helpful in preparing drawings for patent applications.

(r) *Other Publications.* The publications listed are those published regularly and currently, those no longer published and those only issued on occasion not being listed. Except as otherwise indicated copies of the publications may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402. Circulars of information on particular subjects are also issued to answer particular inquiries.

RECORDS AND INFORMATION. Applications for patent are not open to the public and information concerning them is not given except on authority of the applicant, or when necessary to the conduct of the business of the Office. Patents and trademark registrations and the records relating to the same including any decisions therein, the records of assignments, books, and other records and papers in the Office are open to the public and may be inspected in the Patent Office or copies may be ordered. The Office cannot respond to inquiries concerning the novelty and patentability of an invention or the registrability of a trademark in advance of the filing of an application, nor advise of the propriety of filing an application, nor respond to inquiries as to whether any alleged invention has been patented or trademark registered, and, if so, to whom, nor can the Office act as an expounder of the law nor as counselor for individuals, except in deciding questions arising before it. Information of a general nature may be furnished either directly or by supplying or calling attention to an appropriate publication.

OUTLINE OF PROCEDURE IN OBTAINING PATENTS. (a) The obtaining of a patent is initiated by the filing of an application in the Patent Office. The application includes a complete description of the invention, claims defining the invention, a drawing in each case admitting of a drawing, an oath or declaration, and a filing fee, and must comply with various requirements. The application must be made by the inventor with the papers signed and the oath sworn to by him (unless he is dead or insane). Legal representatives of deceased inventors and of those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The application is forwarded to the appropriate Examining Group where, when its turn is reached, it is examined. The application is studied and a search is made through all prior United States patents, and also through patents of foreign countries and publications to find out if the invention is new. A decision is reached, in the light of the study and the results of the search, as to the patentability of the invention or the claims presented and also as to various formal matters. The decision is communicated to the applicant. If adverse, the applicant may ask for reconsideration with or without amending. The application is then reexamined and reconsidered and the result again communicated to the applicant. Further reconsideration of the application may be given.

(b) If the final decision of the examiner is adverse to the granting of a patent, or any of the claims presented, the applicant may appeal to the Board of Appeals and is entitled to an oral hearing. From the decision of the Board of Appeals an appeal may be taken to the United States Court of Customs and Patent Appeals or a civil action may be brought against the Commissioner in the United States District Court for the District of Columbia. Matters of form and procedure may be reviewed on petition to the Commissioner.

(c) The various responses and actions which an applicant may take are governed by time limits fixed by or under the statute and rules and an application is abandoned by failure to reply or take appropriate action within the specified time. An abandoned application may be revived as a pending application by the Commissioner if the delay was unavoidable.

(d) If there are two or more applications for a patent for the same invention, an interference proceeding to determine who is the prior inventor and entitled to the patent is instituted. An interference may also be declared between a pending application and an unexpired patent under certain conditions. The question of priority of invention is determined by a board of three Examiners of Interference and their decision is reviewable by the courts, either by an appeal to the

United States Court of Customs and Patent Appeals or by a civil action in a United States District Court.

(e) When it has been decided that a patent is to be granted, the applicant is sent a notice of allowance and if the issue fee, due within three months, is paid, the patent is granted in due course. If the issue fee is not paid, the patent is not granted, but the fee may be accepted late upon petition to the Commissioner accompanied by a petition fee and a verified statement provided the delay does not exceed three months.

(f) The prosecution of an application for patent must be conducted in writing and the personal attendance of applicants is not required and is unnecessary. Applicants may arrange for interviews with examiners at such times within office hours as the examiners may designate.

(g) An applicant for a patent may prosecute his own case, but he is entitled to be, and usually is, represented by an attorney or agent. No person may represent applicants before the Patent Office unless he is registered in the Patent Office as an attorney or agent, or authorized and recognized to prosecute a particular case.

RULES OF PRACTICE

The following rules governing the practice and procedure in the Patent Office with respect to applications for patent and related matters, and the recognition of attorneys and agents, were initially adopted and promulgated, effective March 1, 1949, after publication of proposed rules and a public hearing, and consideration of the material and arguments submitted, and have been amended from time to time since that date. The present edition contains the amendments effective January 1, 1953, which were made in view of the new patent law, Public Law 593, 82d Congress, 2d session, chapter 950, 66 Stat. 792, and subsequent amendments to September 1, 1965. The sections of Title 35, United States Code, inserted at appropriate places are sections of title 35 as revised and enacted by the new patent law.

These rules and the various amendments were published in the Federal Register. In the Federal Register and in the Code of Federal Regulations these rules are part 1 of Title 37, Patents, Trademarks, and Copyrights, and the individual rules, there called sections, are numbered with the part number and a decimal point prefixed to the numbers to the rules here used; thus section 1.33 in the Federal Register and Code of Federal Regulations is here termed rule 33. The complete arrangement of all the Patent Office rules in the Code of Federal Regulations is as follows:

Title 37—Patents, Trademarks, and Copyrights
Chapter 1—Patent Office, Department of Commerce
Part 1—Rules of Practice in Patent Cases
Part 2—Rules of Practice in Trademark Cases
Part 3—Forms for Patent Cases
Part 4—Forms for Trademark Cases
Part 5—Secrecy of Certain Inventions and Licenses to File Applications in Foreign Countries
Part 6—Classification of Goods and Services Under the Trademark Act
Part 7—Register of Government Interest in Patents

GENERAL INFORMATION AND CORRESPONDENCE

1. All communications to be addressed to Commissioner of Patents. All letters and other communications intended for the Patent Office must be addressed to "Commissioner of Patents," Washington, D.C., 20231. When appropriate, a letter may be marked for the attention of a particular officer or individual.

NOTE: Rules 1 to 26 are applicable to trademark cases as well as to patent cases except for provisions specifically directed to patents.

2. Business to be transacted in writing. All business with the Patent Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent Office is unnecessary. The action of the Patent Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

3. Business to be conducted with decorum and courtesy. Applicants and their attorneys or agents are required to conduct their business with the Patent Office with decorum and courtesy. Papers presented in violation of this requirement will be submitted to the Commissioner and will be returned by his direct order. Complaints against examiners and other employees must be made in communications separate from other papers.

4. Nature of correspondence. (a) Correspondence with the Patent Office comprises (1) correspondence relating to services and facilities of the Office, such as general inquiries, requests for publications supplied by the Office, orders for printed copies of patents or trademark registrations, orders for copies of records, transmission of assignments for recording, and the like, and (2) correspondence in and relating to a particular application or other proceeding in the Office. See particularly the rules relating to the filing and prosecution of applications or other proceedings (patent rules 31 to 352 and trademark rules 2.11 to 2.189).

(b) Since each application file should be complete in itself, a separate copy of every paper to be filed in an application should be furnished for each application to which the paper pertains, even though the contents of the papers filed in two or more applications may be identical.

(c) Since different matters may be considered by different branches or sections of the Patent Office, each distinct subject, inquiry or order should be contained in a separate letter to avoid confusion and delay in answering letters dealing with different subjects.

5. Identification of application, patent or registration. (a) When a letter concerns an application for patent, it should state the

name of the applicant, the title of the invention, the serial number of the application, the date of filing the same, and, if known, the division to which it has been assigned (see rule 55).

(b) When the letter concerns a patent, it should state the number and date of issue of the patent, the name of the patentee, and the title of the invention.

(c) A letter relating to a trademark application should identify it as such and by the name of the applicant and the serial number and filing date of the application. A letter relating to a registered trademark should identify it by the name of the registrant and by the number and date of the certificate.

6. Receipt of letters and papers. (a) Letters and other papers received in the Patent Office are stamped with the date of receipt. No papers are received in the Patent Office on Saturdays, Sundays or holidays, within the District of Columbia.

(b) Mail placed in the Patent Office pouch up to midnight on weekdays, excepting Saturdays and holidays, by the post office at Washington, D.C., serving the Patent Office, is considered as having been received in the Patent Office on the day it was so placed in the pouch.

(c) In addition to being mailed or delivered by hand during office hours, letters and other papers may be deposited up to midnight in a box provided at the guard's desk at the 14th and E Street entrance of the Patent Office on weekdays except Saturdays and holidays, and all papers deposited therein are considered as received in the Patent Office on the day of deposit.

7. Times for taking action; expiration on Saturday, Sunday or holiday. Whenever periods of time are specified in these rules in days, calendar days are intended. When the day, or the last day, fixed by statute or by or under these rules for taking any action or paying any fee in the Patent Office falls on Saturday, Sunday, or on a holiday, within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding day which is not a Saturday, Sunday, or a holiday. See rule 304 for time for appeal or for commencing civil action.

35 U.S.C. 21. Day for taking action falling on Saturday, Sunday, or holiday. When the day, or the last day, for taking any action or paying any fee in the United States Patent Office falls on Saturday, Sunday, or a holiday, within the District of Columbia, the action may be taken, or the feed paid, on the next succeeding secular or business day.

NOTE: The following days are holidays in the District of Columbia: New Year's Day, January 1; Washington's Birthday, February 22; Memorial Day, May 30; Independence Day, July 4; Labor Day (first Monday in September); Veterans Day, November 11; Thanksgiving Day (fourth Thursday in November); Christmas Day, December 25; Inauguration Day, January 20 (every 4 years).

RECORDS AND FILES OF THE PATENT OFFICE

11. Patent files open to the public. After a patent has been issued, the specification, drawings, and all papers relating to the case in the file of the patent are open to inspection by the general public, and copies may be furnished upon paying the fee therefor. The file of any terminated interference involving a patent, or an application on which a patent has subsequently issued, is similarly open to public inspection and procurement of copies. (See trademark rule 2.27 for trademark files.)

12. Assignment records open to public inspection. The assignment records, relating to original or reissue patents, including digests and indexes, are open to public inspection and copies of any instrument recorded may be obtained upon payment of the fee therefor. Assignment records, digests and indexes, relating to any pending or abandoned application are not available to the public. Copies of any such assignment records and information with respect thereto shall be obtainable only upon written authority of the applicant or his assignee or attorney or agent or upon a showing that the person seeking such information is a bona fide prospective or actual purchaser, mortgagee or licensee of such application, unless it shall be necessary to the proper conduct of business before the Office or as provided by these rules. An order for a copy of an assignment should give the identification of the record. If identified only by the name of the patentee and number of the patent, or in the case of a trademark registration by the name of the registrant and number of the registration, or by name of the applicant and serial number of the application, an extra charge will be made for the time consumed in making a search for such assignment.

13. Copies and certified copies. (a) Copies of patents and trademark registrations and of any records, books, papers or drawings belonging to the Patent Office and open to the public, will be furnished by the Patent Office to any person, and copies of other records or papers will be furnished to persons entitled thereto, upon payment of the fee therefor.

(b) Such copies will be authenticated by the seal of the Patent Office and certified by the Commissioner, or in his name attested by an officer of the Patent Office authorized by the Commissioner, upon payment of the fee for the authentication certificate in addition to the fee for the copies.

14. Patent applications preserved in secrecy. (a) Pending patent applications are preserved in secrecy. No information will be given by the Office respecting the filing by any particular person of an application for a patent, the pendency of any particular case

before it, or the subject matter of any particular application, nor will access be given to or copies furnished of any pending application or papers relating thereto, without written authority of the applicant, or his assignee or attorney or agent, unless it shall be necessary to the proper conduct of business before the Office or as provided by these rules.

(b) Abandoned applications are likewise not open to public inspection, except that if an application referred to in a United States patent is abandoned and is available, it may be inspected or copies obtained by any person on written request, without notice to the applicant. Abandoned applications may be destroyed after twenty years from their filing date, except those to which particular attention has been called and which have been marked for preservation. Abandoned applications will not be returned.

(c) Applications for patents which disclose or which appear to disclose, or which purport to disclose, inventions or discoveries relating to atomic energy are reported to the Atomic Energy Commission and the Commission will be given access to such applications, but such reporting does not constitute a determination that the subject matter of each application so reported is in fact useful or an invention or discovery or that such application in fact discloses subject matter in categories specified by sections 151(c) and 151(d) of the Atomic Energy Act of 1954, 68 Stat. 919; 42 U.S.C. 2181.

(d) Selected decisions of the Board of Appeals, or of the Commissioner, in abandoned applications not otherwise open to public inspection (paragraph (b) of this section) may be published or made available for publication at the Commissioner's discretion, unless the applicant timely presents sufficient reasons for not doing so. The applicant will be notified, through the attorney of record in the application file, when it is proposed to release such a decision and a time not less than thirty days set for presenting any such reasons. The fact that the subject matter of the application has not been made public in any manner, or that the same subject matter is being prosecuted in a pending application, will be considered sufficient reason for not releasing the decision if the applicant so requests unless the text of the decision contains no description of such subject matter. Other reasons presented will be duly considered.

See trademark rule 2.27 for trademark applications.

35 U.S.C. 122. Confidential status of applications. Applications for patents shall be kept in confidence by the Patent Office and no information concerning the same given without authority of the applicant or owner unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commissioner.

NOTE: See rules 5.1 et seq. and 35 U.S.C. 181 et seq. (pp. 138–147) relating to secrecy of certain inventions. See 42 U.S.C. 2181 and 2182 (p. 24) relating to atomic energy inventions. See sec. 305 of the National Aeronautics and Space Act, 72 Stat. 435, 42 U.S.C. 2457.

FEES AND PAYMENT OF MONEY

21. Patent and miscellaneous fees and charges. In addition to the fees prescribed by statute, the following fees and charges are established by the Patent Office:

(a) For typewritten copies of records, for each page produced (double spaced) or fraction thereof $1.50

(b) For photocopies or other reproductions of records, drawings or printed material, per page of material copied ..... .30

(c) For copies of plant patents in color 1.00

(d) For certified copies of patents in print:

For specification and drawing, per copy ..... .50

For the certificate 1.00

For the grant 1.00

(e) For abstracts of title to each patent or application:

For the search, one hour or less, and certificate 3.00

Each additional hour or fraction thereof 1.50

For each brief from the digest of assignments, of 200 words or less 1.00

Each additional 100 words or fraction thereof ..... .10

(f) For title reports required for Office use 1.00

(g) For translations from foreign languages into English, made only of references cited in applications or of papers filed in the Patent Office insofar as facilities may be available: Written translations, for every 100 words of the original language, or fraction thereof 5.00

Oral translations (dictation or assistance), for each one-half hour or fraction thereof that service is rendered 4.00

(h) For registration of an attorney, agent, or firm:

For admission to examination for registration to practice, fee payable upon application 15.00

On registration to practice 10.00

On application for registration of a firm 5.00

(i) For certificate of good standing as an attorney or agent 1.00

(j) For making patent drawings when facilities are available, the cost of making the same, minimum charge per sheet 25.00

(k) For correcting patent drawings, the cost of making the correction, minimum charge 3.00

(l) For the mounting of unmounted drawings and photoprints received with patent applications, provided they are of approved permanency 2.00

(m) For photographic prints of patent models, building facilities, etc., if available:

For 5 x 7 photographic print ..... .50

For 8 x 10 photographic print ..... .75

(n) Search of Patent Office records for purposes not otherwise specified in this rule, per half-hour of search or fraction thereof 3.00

(o) [Deleted.]

(p) Subscription order for printed copies of patents as issued: Annual service charge for entry of order and one subclass, $2.00, and 20 cents for each additional subclass included; amount to be deposited (for price of copies supplied), as determined with respect to each order.

(q) List of U.S. Patents:

All patents in a subclass, per sheet (containing 100 patent numbers or less)	$0.50
Minimum charge per order	1.00
Patents in a subclass, limited by date or patent number, per sheet (containing 50 numbers or less)	.50
Minimum charge per order	1.00

(r) Local delivery box rental, annual 12.00

(s) For publication in the Official Gazette of a notice of the availability of a patent for licensing or sale, each patent 3.00

(t) For special service to expedite furnishing items or services ahead of regular order:

On orders for copies of United States patents and trademark registrations, in addition to the charge for the copies, for each copy ordered	.25
On all other orders or requests for which special service facilities are available, in addition to the regular charge, a special service charge equal to the amount of regular charge; minimum special service charge per order or request	1.00

(u) For airmail delivery:

On "special service" orders to destinations to which United States domestic airmail postage rates apply, no additional charge.

On regular service orders to any destination and "special service" orders to destinations other than those specified in the preceding subparagraph, an additional charge equal to the amount of airmail postage. (Available only when the ordering party has, with the Patent Office, a deposit account. Rule 25.)

(v) For items and services, that the Commissioner finds may be supplied, for which fees are not specified by statute or by this rule, such charges as may be determined by the Commissioner with respect to each such item or service.

NOTE: The statutory fees are as follows:

35 U.S.C. 41. Patent fees. (a) The Commissioner shall charge the following fees:

1. On filing each application for an original patent, except in design cases, $65; in addition, on filing or on presentation at any other time, $10 for each claim in independent form which is in excess of one, and $2 for each claim (whether independent or dependent) which is in excess of ten. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.

2. For issuing each original or reissue patent, except in design cases, $100; in addition, $10 for each page (or portion thereof) of specification as printed, and $2 for each sheet of drawing.

3. In design cases:

"a. On filing each design application, $20.

"b. On issuing each design patent: For three years and six months, $10; for seven years, $20; and for fourteen years, $30.

4. On filing each application for the reissue of a patent, $65; in addition, on filing or on presentation at any other time, $10 for each claim in independent form which is in excess of the number of independent claims of the original patent, and $2 for each claim (whether independent or dependent) which is in excess of ten and also in excess of the number of claims of the original patent. Errors in

payment of the additional fees may be rectified in accordance with regulations of the Commissioner.

5. On filing each disclaimer, $15.

6. On appeal for the first time from the examiner to the Board of Appeals, $50; in addition, on filing a brief in support of the appeal, $50.

7. On filing each petition for the revival of an abandoned application for a patent or for the delayed payment of the fee for issuang each patent, $15.

8. For certificate under section 255 or under section 256 of this title, $15.

9. As available and if in print: For uncertified printed copies of specifications and drawings of patents (except design patents), 50 cents per copy; for design patents, 20 cents per copy, the Commissioner may establish a charge not to exceed $1 per copy for patents in excess of twenty-five pages of drawings and specifications and for plant patents printed in color; special rates for libraries specified in section 13 of this title, $50 for patents issued in one year. The Commissioner may, without charge, provide applicants with copies of specifications and drawings of patents when referred to in a notice under section 132.

10. For recording every assignment, agreement, or other paper relating to the property in a patent or application, $20; where the document relates to more than one patent or application, $3 for each additional item.

11. For each certificate, $1.

(b) The Commissioner may establish charges for copies of records, publications, or services furnished by the Patent Office, not specfiied above.

(c) The fees prescribed by or under this section shall apply to any other Government department or agency, or officer thereof, except that the Commissioner may waive the payment of any fee for services or materials in cases of occasional or incidental requests by a Government department or agency, or officer thereof.

NOTE: The Official Gazette and other publications in the following list are sold, and the prices therefor established, by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402, to whom all communications respecting the same should be addressed (except with respect to items indicated as supplied by the Patent Office also).

Official Gazette of the United States Patent Office:	
Annual subscription, domestic	$50.00
Annual subscription, foreign	62.00
Single numbers	1.25
Portions of the Official Gazette supplied separately:	
Decision leaflets, domestic $4.00, foreign $7.00, per annum; single numbers	0.15
Trademark Section, domestic $12.00, foreign $16.00, per annum; single numbers	.20
Annual index relating to patents; price varies, 1964 volume, buckram	6.75
Annual index relating to trademarks; price varies, 1964 volume, buckram	2.50
Decisions of the Commissioner of Patents; price varies, 1964 volume buckram	4.50
Classification Bulletins published from time to time (also supplied by the Patent Office), price varies for different numbers, according to size, minimum price 10 cents.	
Roster of Attorneys and Agents Registered to Practice before the United States Patent Office	.70
Manual of Classification of Patents	8.50

Manual of Patent Examining Procedure:	
Domestic, per year	$4.00
Foreign, per year	5.60
Guide for Patent Draftsmen	.15

22. Fees payable in advance. Fees and charges payable to the Patent Office are required to be paid in advance, that is, at the time of making application for any action by the Office for which a fee or charge is payable.

23. Method of payment. All payments of money required for Patent Office fees should be made in United States specie, Treasury notes, national bank notes, post office money orders, or by certified checks. If sent in any other form, the Office may delay or cancel the credit until collection is made. Money orders and checks must be made payable to the Commissioner of Patents. Remittances from foreign countries must be payable and immediately negotiable in the United States for the full amount of the fee required. Money sent by mail to the Patent Office will be at the risk of the sender; letters containing money should be registered.

24. Coupons. Coupons in denominations of twenty cents and fifty cents are sold by the Patent Office for the convenience of regular purchasers of United States patents, designs, and trademark registrations; these coupons may not be used for any other purpose. The twenty cent coupons are sold individually and in pads of 10 for $2.00 and books of 50 with stubs for record for $10.00. The fifty cent coupons are sold individually and in pads of 10 for $5.00 and in books of 50 with stubs for record for $25.00. These coupons are good until used; they may be transferred but cannot be redeemed.

NOTE: Public document coupons issued by the Superintendent of Documents cannot be used in the Patent Office, nor can the coupons issued by the Patent Office be used at the Government Printing Office or elsewhere.

25. Deposit accounts. (a) For the convenience of attorneys, agents and the general public, in ordering services offered by the Office, copies of records, etc., special deposit accounts may be established in the Patent Office. A minimum deposit of $50.00 or more, depending on the activity of the individual account, is required. At the close of each month's business, a statement will be rendered. A remittance must be made promptly upon receipt of the statement to cover the value of items or services charged to the account and thus restore the account to its established normal deposit value. An amount sufficient to cover all services, copies, etc., requested must always be on deposit.

(b) Filing, final, appeal, and petition fees will not be charged against these accounts.

26. Refunds. Money paid by actual mistake or in excess, such as a payment not required by law, will be refunded, but a mere change of purpose after the payment of money, as when a party desires to withdraw his application or to withdraw an appeal, will not entitle a party to demand such a return. Amounts of ten cents or less will not be returned unless specifically demanded, within a reasonable time, nor will the payer be notified of such amount; amounts over ten cents but less than $1.00 may be returned in postage stamps, and other amounts by check.

35 U.S.C. 42. Payment of patent fees; return of excess amounts. All patent fees shall be paid to the Commissioner who shall deposit the same in the Treasury of the United States in such manner as the Secretary of the Treasury directs, and the Commissioner may refund any sum paid by mistake or in excess of the fee required by law.

PROSECUTION OF APPLICATION AND APPOINTMENT OF ATTORNEY OR AGENT

31. Applicants may be represented by an attorney or agent. An applicant for patent may file and prosecute his own case, or he may be represented by an attorney or agent authorized to practice before the Patent Office in patent cases. The Patent Office cannot aid in the selection of an attorney or agent.

32. Prosecution by assignee. The assignee of record of the entire interest in an application for patent is entitled to conduct the prosecution of the application to the exclusion of the inventor.

33. Correspondence when no attorney or agent. (a) When no attorney or agent has been appointed, all notices, official letters and other communications in the case will be sent to the applicant, or to the assignee of the entire interest if the applicant or such assignee so request, or to the assignee of an undivided part if the applicant so requests, at the post office address of which the Office has been notified in the case. Amendments and other papers filed in the application must be signed by the applicant, or if there is an assignee of an undivided part interest, by the applicant and such assignee, or if there is an assignee of the entire interest, by such assignee.

(b) An applicant who is not represented by a registered attorney or agent may be required to state whether he received assistance in the preparation or prosecution of his application, for which any compensation or consideration was given or charged, and if so, to disclose the name or names of the person or persons providing such assistance. This includes the preparation for the applicant of the specification and amendments or other papers to be filed in the Patent Office, as well as other assistance in such matters, but does not include merely making drawings by draftsmen or stenographic services in typing papers.

34. Power of attorney or authorization. Before any attorney or agent, original or associate, will be allowed to inspect papers or take action of any kind in any application or proceeding, a written power of attorney or authorization, from the person or persons entitled to prosecute the application or from the principal attorney or agent in the case of an associate attorney or agent, must be filed in that particular application or proceeding.

35. Correspondence held with attorney. When an attorney or agent shall have filed his power of attorney, or authorization, duly executed, the correspondence will be held with him; notices, official letters, and other communications in the case intended for the applicant will be sent to the attorney or agent at the address of which notice shall have been given in the case, and replies to Office actions, or other actions in the case, will be received from him. Double correspondence with an applicant and his attorney or agent, or with two representatives, will not be undertaken. If more than one attorney or agent be appointed, correspondence will be held with the one last appointed unless otherwise requested.

36. Revocation of power of attorney or authorization; withdrawal of attorney or agent. A power of attorney or authorization of agent may be revoked at any stage in the proceedings of a case, and an attorney or agent may withdraw, upon application to and approval by the Commissioner; and when it is so revoked, or the attorney or agent so withdrawn, the Office will communicate directly with the applicant, or with such other attorney or agent as he may appoint. An attorney or agent, except an associate attorney or agent whose address is the same as that of the principal attorney or agent, will be notified of the revocation of his power of attorney or authorization and the applicant will be notified of the withdrawal of the attorney or agent. An assignment will not of itself operate as a revocation of a power or authorization previously given, but the assignee of the entire interest may revoke previous powers and be represented by an attorney or agent of his own selection.

WHO MAY APPLY FOR A PATENT

41. Applicant for patent. (a) A patent must be applied for and the application papers must be signed and the necessary oath or declaration executed by the actual inventor in all cases, except as provided by rules 42, 43, and 47. (See rule 147.)

(b) Unless the contrary is indicated, the word "applicant" when used in these rules refers to the inventor, joint inventors who have applied for a patent, or to the person mentioned in rules 42, 43, or 47 who has applied for a patent in place of the inventor.

42. When the inventor is dead. In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may sign the application papers and make the necessary oath or declaration, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of his application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention by him.

35 U.S.C. 117. Death or incapacity of inventor. Legal representatives of deceased inventors and of those under legal incapacity may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

43. When the inventor is insane or legally incapacitated. In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may sign the application papers and make the necessary oath or declaration, and apply for and obtain the patent.

44. Proof of authority. In the cases mentioned in rules 42 and 43, proof of the power or authority of the legal representative must be recorded in the Patent Office or filed in the application before the grant of a patent.

45. Joint inventors. (a) Joint inventors must apply for a patent jointly and each must sign the application papers and make the required oath or declaration; neither of them alone, nor less than the entire number, can apply for a patent for an invention invented by them jointly, except as provided in rule 47.

(b) If an application for patent has been made through error and without any deceptive intention by two or more persons as joint inventors when they were not in fact joint inventors, the application may be amended to remove the names of those not inventors upon filing a statement of the facts verified by all of the original applicants, and an oath or declaration as required by rule 65 by the applicant who is the actual inventor, provided the amendment is diligently made. Such amendment must have the written consent of any assignee.

(c) If an application for patent has been made through error and without any deceptive intention by less than all the actual joint inventors, the application may be amended to include all the joint inventors upon filing a statement of the facts verified by, and an oath or declaration as required by rule 65 executed by, all the actual joint inventors, provided the amendment is diligently made. Such amendment must have the written consent of any assignee.

35 U.S.C. 116. Joint inventors. When an invention is made by two or more persons jointly, they shall apply for patent jointly and each sign the application and make the required oath, except as otherwise provided in this title.

If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself and the omitted inventor. The Commissioner, on proof of the pertinent facts and after such notice to the omitted inventor as he prescribes, may grant a patent to the inventor making the application, subject to the same rights which the omitted inventor would have had if he had been joined. The omitted inventor may subsequently join in the application.

Whenever a person is joined in an application for patent as joint inventor through error, or a joint inventor is not included in an application through error, and such error arose without any deceptive intention on his part, the Commissioner may permit the application to be amended accordingly, under such terms as he prescribes.

46. Assigned inventions and patents. In case the whole or a part interest in the invention or in the patent to be issued is assigned, the application must still be made by the inventor or one of the persons mentioned in rules 42, 43, or 47. However, the patent may be issued to the assignee or jointly to the inventor and the assignee as provided in rule 334.

47. Filing by other than inventor. (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself and the omitted inventor. Such application must be accompanied by proof of the pertinent facts and must state the last known address of the omitted inventor. The Patent Office shall forward notice of the filing of the application to the omitted inventor at said address. Should such notice be returned to the Office undelivered, or should the address of the omitted inventor be unknown, notice of the filing of the application shall be published in the Official Gazette. The omitted inventor may subsequently join in the application on filing an oath or declaration of the character required by rule 65. A patent may be granted to the inventor making the application, upon a showing satisfactory to the Commissioner, subject to the same rights which the omitted inventor would have had if he had been joined.

(b) Whenever an inventor refuses to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom the inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action may make application for patent on behalf of and as agent for the inventor. Such application must be accompanied by proof of the pertinent facts and a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, and must state the last known address of the inventor. The assignment, written agreement to assign or other evidence of proprietary interest, or a verified copy thereof, must be filed in the Patent Office at the time of filing the application. The

Office shall forward notice of the filing of the application to the inventor at the address stated in the application. Should such notice be returned to the Office undelivered, or should the address of the inventor be unknown, notice of the filing of the application shall be published in the Official Gazette. The inventor may subsequently join in the application on filing an oath or declaration of the character required by rule 65. A patent may be granted to the inventor upon a showing satisfactory to the Commissioner.

35 U.S.C. 118. Filing by other than inventor. Whenever an inventor refuses to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom the inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for the inventor on proof of the pertinent facts and a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage; and the Commissioner may grant a patent to such inventor upon such notice to him as the Commissioner deems sufficient, and on compliance with such regulations as he prescribes.

35 U.S.C. 101. Inventions patentable. Whoever invents or discovers any new and useful process, machine, manufacture, or compostion of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

35 U.S.C. 100. Definitions. When used in this title unless the context otherwise indicates—

(a) The term "invention" means invention or discovery.

(b) The term "process" means process, art or method, and includes a new use of a known process, machine, manufacture, composition of matter, or material.

(c) The terms "United States" and "this country" mean the United States of America, its territories and possessions.

(d) The word "patentee" includes not only the patentee to whom the patent was issued but also the successors in title to the patentee.

35 U.S.C. 102. Conditions for patentability; novelty and loss of right to patent. A person shall be entitled to a patent unless—

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or

(c) he has abandoned the invention, or

(d) the invention was first patented or cause to be patented by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application filed more than twelve months before the filing of the application in the United States, or

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or

(f) he did not himself invent the subject matter sought to be patended, or

(g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

35 U.S.C. 103. Conditions for patentability; non-obvious subject matter. A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

35 U.S.C. 104. Invention made abroad. In proceedings in the Patent Office and in the courts, an applicant for a patent, or a patentee, may not establish a date of invention by reference to knowledge or use thereof, or other activity with respect thereto, in a foreign country, except as provided in section 119 of this title. Where an invention was made by a person, civil or military, while domiciled in the United States and serving in a foreign country in connection with operations by or on behalf of the United States, he shall be entitled to the same rights of priority with respect to such invention as if the same had been made in the United States.

35 U.S.C. 4. Restrictions on officers and employees as to interest in patents. Officers and employees of the Patent Office shall be incapable, during the period of their appointments and for one year thereafter, of applying for a patent and of acquiring, directly or indirectly, except by inheritance or bequest, any patent or any right or interest in any patent, issued or to be issued by the Office. In patents applied for thereafter they shall not be entitled to any priority date earlier than one year after the termination of their appointment.

42 U.S.C. 2181 (sec. 151, Atomic Energy Act of 1954). Inventions relating to atomic weapons, and filing of reports. a. No patent shall hereafter be granted for any invention or discovery which is useful solely in the utilization of special nuclear material or atomic energy in an atomic weapon. Any patent granted for any such invention or discovery is hereby revoked, and just compensation shall be made therefor.

b. No patent hereafter granted shall confer any rights with respect to any invention or discovery to the extent that such invention or discovery is used in the utilization of special nuclear material or atomic energy in atomic weapons. Any rights conferred by any patent heretofore granted for any invention or discovery are hereby revoked to the extent that such invention or discovery is so used, and just compensation shall be made therefor.

c. Any person who has made or hereafter makes any invention or discovery useful in the production or utilization of special nuclear material or atomic energy, shall file with the Commission a report containing a complete description thereof unless such invention or discovery is described in an application for a patent filed with the Commissioner of Patents by such person within the time required for the filing of such report. The report covering any such invention or discovery shall be filed on or before the one hundred and eightieth day after such person first discovers or first has reason to believe that such invention or discovery is useful in such production or utilization.

d. The Commissioner of Patents shall notify the Commission of all applications for patents heretofore or hereafter filed which, in his opinion, disclose inven-

tions or discoveries required to be reported under subsection 151 c, and shall provide the Commission access to all such applications.

e. Reports filed pursuant to subsection c. of this section, and applications to which access is provided under subsection d. of this section, shall be kept in confidence by the Commission, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commission.

42 U.S.C. 2182 (sec. 152). Inventions made or conceived during Commission contracts. Any invention or discovery, useful in the production or utilization of special nuclear material or atomic energy, made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, regardless of whether the contract, subcontract, or arrangement involved the expenditure of funds by the Commission, shall be vested in, and be the property of, the Commission, except that the Commission may waive its claim to any such invention or discovery under such circumstances as the Commission may deem appropriate, consistent with the policy of this section. No patent for any invention or discovery, useful in the production or utilization of special nuclear material or atomic energy, shall be issued unless the applicant files with the application, or within thirty days after request therefor by the Commissioner of Patents (unless the Commission advises the Commissioner of Patents that its rights have been determined and that accordingly no statement is necessary) a statement under oath setting forth the full facts surrounding the making or conception of the invention or discovery described in the application and whether the invention or discovery was made or conceived in the course of or under any contract, subcontract, or arrangement entered into with or for the benefit of the Commission, regardless of whether the contract, subcontract, or arrangement involved the expenditure of funds by the Commission. The Commissioner of Patents shall as soon as the application is otherwise in condition for allowance forward copies of the application and the statement to the Commission.

The Commissioner of Patents may proceed with the application and issue the patent to the applicant (if the invention or discovery is otherwise patentable) unless the Commission, within 90 days after receipt of copies of the application and statement, directs the Commissioner of Patents to issue the patent to the Commission (if the invention or discovery is otherwise patentable) to be held by the Commission as the agent of and on behalf of the United States.

If the Commission files such a direction with the Commissioner of Patents, and if the applicant's statement claims, and the applicant still believes, that the invention or discovery was not made or conceived in the course of or under any contract, subcontract or arrangement entered into with or for the benefit of the Commission entitling the Commission to the title to the application or the patent the applicant may, within 30 days after notification of the filing of such a direction, request a hearing before a Board of Patent Interferences. The Board shall have the power to hear and determine whether the Commission was entitled to the direction filed with the Commissioner of Patents. The Board shall follow the rules and procedures established for interference cases and an appeal may be taken by either the applicant or the Commission from the final order of the Board to the Court of Customs and Patent Appeals in accordance with the procedures governing the appeals from the Board of Patent Interferences.

If the statement filed by the applicant should thereafter be found to contain false material statements any notification by the Commission that it has no objections to the issuance of a patent to the applicant shall not be deemed in any respect to constitute a waiver of the provisions of this section or of any applicable civil or criminal statute, and the Commission may have the title to

the patent transferred to the Commission on the records of the Commissioner of Patents in accordance with the provisions of this section. A determination of rights by the Commission pursuant to a contractual provision or other arrangement prior to the request of the Commissioner of Patents for the statement, shall be final in the absence of false material statements or nondisclosure of material facts by the applicant.

42 U.S.C. 2457. (305, National Aeronautics and Space Act of 1958) Property rights in inventions. (a) *Exclusive property of United States; issuance of patent.* Whenever any invention is made in the performance of any work under any contract of the Administration, and the Administrator determines that—

(1) the person who made the invention was employed or assigned to perform research, development, or exploration work and the invention is related to the work he was employed or assigned to perform, or that it was within the scope of his employment duties, whether or not it was made during working hours, or with a contribution by the Government of the use of Government facilities, equipment, materials, allocated funds, information proprietary to the Government, or services of Government employees during working hours; or

(2) the person who made the invention was not employed or assigned to perform research, development, or exploration work, but the invention is nevertheless related to the contract, or to the work or duties he was employed or assigned to perform, and was made during working hours, or with a contribution from the Government of the sort referred to in clause (1),

such invention shall be the exclusive property of the United States, and if such invention is patentable a patent therefor shall be issued to the United States upon application made by the Administrator, unless the Administrator waives all or any part of the rights of the United States to such invention in conformity with the provisions of subsection (f) of this section.

* * * * * * *

(c) *Patent application.* No patent may be issued to any applicant other than the Administrator for any invention which appears to the Commissioner of Patents to have significant utility in the conduct of aeronautical and space activities unless the applicant files with the Commissioner, with the application or within thirty days after request therefor by the Commissioner, a written statement executed under oath setting forth the full facts concerning the circumstances under which such invention was made and stating the relationship (if any) of such invention to the performance of any work under any contract of the Administration. Copies of each such statement and the application to which it relates shall be transmitted forthwith by the Commissioner to the Administrator.

(d) *Issuance of patent to applicant; request by Administrator; notice; hearing; determination; review.* Upon any application as to which any such statement has been transmitted to the Administrator, the Commissioner may, if the invention is patentable, issue a patent to the applicant unless the Administrator, within ninety days after receipt of such application and statement, requests that such patent be issued to him on behalf of the United States. If, within such time, the Administrator files such a request with the Commissioner, the Commissioner shall transmit notice thereof to the applicant, and shall issue such patent to the Administrator unless the applicant within thirty days after receipt of such notice requests a hearing before a Board of Patent Interferences on the question whether the Administrator is entitled under this section to receive such patent. The Board may hear and determine, in accordance with rules and

procedures established for interference cases, the question so presented, and its determination shall be subject to appeal by the applicant or by the Administrator to the Court of Customs and Patent Appeals in accordance with procedures governing appeals from decisions of the Board of Patent Interferences in other proceedings.

(e) *False representations; request for transfer of title to patent; notice; hearing; determination; review.* Whenever any patent has been issued to any applicant in conformity with subsection (d) of this section, and the Administrator thereafter has reason to believe that the statement filed by the applicant in connection therewith contained any false representation of any material fact, the Administrator within five years after the date of issuance of such patent may file with the Commissioner a request for the transfer to the Administrator of title to such patent on the records of the Commissioner. Notice of any such request shall be transmitted by the Commissioner to the owner of record of such patent, and title to such patent shall be so transferred to the Administrator unless within thirty days after receipt of such notice such owner of record requests a hearing before a Board of Patent Interferences on the question whether any such false representation was contained in such statement. Such question shall be heard and determined, and determination thereof shall be subject to review, in the manner prescribed by subsection (d) of this section for questions arising thereunder. No request made by the Administrator under this subsection for the transfer of title to any patent, and no prosecution for the violation of any criminal statute, shall be barred by any failure of the Administrator to make a request under subsection (d) of this section for the issuance of such patent to him, or by any notice previously given by the Administrator stating that he had no objection to the issuance of such patent to the applicant therefor.

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THE APPLICATION

51. General requisites of an application. Applications for patents must be made to the Commissioner of Patents. A complete application comprises:

(a) A petition or request for a patent, see rule 61.

(b) A specification, including a claim or claims, see rules 71 to 77.

(c) An oath or declaration, see rule 65.

(d) Drawings, when necessary, see rules 81 to 88.

(e) The prescribed filing fee. (See rule 21 for filing fees.)

52. Language, paper, writing, margins. (a) The petition, specification, and oath or declaration must be in the English language. All papers which are to become a part of the permanent records of the Patent Office must be legibly written or printed in permanent ink.

(b) The specification and claims, and also papers subsequently filed, must be plainly written on but one side of the paper. A wide margin must be reserved on the left-hand side and on the top of each page and the lines must not be crowded too closely together. Legal paper, 8 to 8½ by 12½ to 13 inches, typewritten and double spaced with margins of one and one-half inches on the left-hand side and top

is deemed preferable. Typewritten or printed papers suitable for use by the Office may be required if the papers originally filed are not correctly, legibly, and clearly written.

(c) Any interlineation, erasure or cancellation or other alteration, made before the application was signed and sworn to, or declaration made, should be clearly referred to in a marginal note or footnote on the same sheet of paper, and initialed or signed and dated by the applicant to indicate such fact. (See rule 56.)

35 U.S.C. 22. Printing of papers filed. The Commissioner may require papers filed in the Patent Office to be printed or typewritten.

53. Application accepted and filed for examination only when complete. (a) An application for a patent will not be accepted and placed upon the files for examination until all its required parts, complying with the rules relating thereto, are received, except that certain minor informalities may be waived subject to subsequent correction whenever required.

(b) If the papers and parts are incomplete, or so defective that they cannot be accepted as a complete application for examination, the applicant will be notified; the papers will be held six months for completion and, if not by then completed, will thereafter be returned or otherwise disposed of; the fee, if submitted, will be refunded.

54. Parts of application to be filed together. It is desirable that all parts of the complete application be deposited in the Office together; otherwise a letter must accompany each part, accurately and clearly connecting it with the other parts of the application.

55. Serial number and filing date of application. (a) Complete applications are numbered in regular order, and the applicant will be informed of the serial number and filing date of the application by a filing receipt. The filing date of the application is the date on which the complete application, acceptable for placing on the files for examination, is received in the Patent Office; or the date on which the last part completing such application is received in the case of an incomplete or defective application completed within six months.

(b) An applicant may claim the benefit of the filing date of a prior foreign application under the conditions specified in 35 U.S.C. 119. The claim to priority need be in no special form and may be made by the attorney or agent if the foreign application is referred to in the oath as required by rule 65. The claim for priority and the certified copy of the foreign application specified in the second paragraph of 35 U.S.C. 119 must be filed in the case of interference when specified in rules 216 and 224; when necessary to overcome the date of a reference relied upon by the examiner; or when specifically required by the examiner; and in all other cases they must be filed not later than

the date the final fee is paid. If the papers filed are not in the English language, a translation need not be filed except in the three particular instances specified in the preceding sentence, in which event a sworn translation or a translation certified as accurate by a sworn or official translator must be filed.

35 U.S.C. 119. Benefit of earlier filing date in foreign country; right of priority. An application for patent for an invention filed in this country by any person who has, or whose legal representatives or assigns have, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if the application in this country is filed within twelve months from the earliest date on which such foreign application was filed; but no patent shall be granted on any application for patent for an invention which had been patented or described in a printed publication in any country more than one year before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country more than one year prior to such filing.

No application for patent shall be entitled to this right of priority unless a claim therefor and a certified copy of the original foreign application, specification and drawings upon which it is based are filed in the Patent Office before the patent is granted, or at such time during the pendency of the application as required by the Commissioner not earlier than six months after the filing of the application in this country. Such certification shall be made by the patent office of the foreign country in which filed and show the date of the application and of the filing of the specification and other papers. The Commissioner may require a translation of the papers filed if not in the English language and such other information as he deems necessary.

In like manner and subject to the same conditions and requirements, the right provided in this section may be based upon a subsequent regularly filed application in the same foreign country instead of the first filed foreign application, provided that any foreign application filed prior to such subsequent application has been withdrawn, abandoned, or otherwise disposed of, without having been laid open to public inspection and without leaving any rights outstanding, and has not served, nor thereafter shall serve, as a basis for claiming a right of priority.

NOTE.—Following is a list of countries with respect to which the right of priority referred to in 35 U.S.C. 119 has been recognized. The authority in the case of these countries is the International Convention for the Protection of Industrial Property (613 O.G. 23, 53 Stat. 1748; 775 O.G. 321), indicated by the letter I following the name of the country; the Inter-American Convention relating to Inventions, Patents, Designs and Industrial Models, signed at Buenos Aires August 20, 1910 (207 O.G. 935, 30 Stat. 1811), indicated by the letter P after the name of the country; or reciprocal legislation in the particular country, indicated by the letter L following the name of the country.

Algeria (I), Australia (I), Austria (I), Belgium (I), Brazil (I,P), Bulgaria (I), Cameroon (I), Canada (I), Central African Republic (I), Ceylon (I), Chad, Republic of (I), Congo, Republic of (I), Costa Rica (P), Cuba (I,P), Czechoslovakia (I), Denmark (I), Dominican Republic (I,P), Ecuador (P), Egypt (United Arab Republic) (I), Finland (I), France (I), Germany, Federal Republic of (I), Great Britain (I), Greece (I), Guatemala (P), Haiti (P), Honduras (P), Hungary (I), Iceland (I), Indonesia (I), Iran (I), Ireland (I), Israel (I), Italy (I), Ivory Coast, Republic of (I), Japan (I), Kenya (I), Korea (L), Laos,

Kingdom of (I), Lebanon (I), Liechtenstein (I), Luxemburg (I), Malagasy, Republic of (I), Mauritania (I), Mexico (I), Monaco (I), Morocco (I), Netherlands (I), New Zealand (I), Nicaragua (P), Niger (I), Nigeria, Federation of (I), Norway (I), Panama (P), Paraguay (P), Philippines (I), Poland (I), Portugal (I), Rhodesia and Nyasaland, Federation of (I), Roumania (I), San Marino (I), Senegal, Republic of (I), Southern Rhodesia (I), Spain (I), Sweden (I), Switzerland (I), Syria (United Arab Republic) (I), Tanganyika (I), Trinidad and Tobago (I), Tunis (I), Turkey (I), Union of South Africa (I), U.S.S.R. (I), United Arab Republic (I), Upper Volta, Republic of (I), Uganda (I), Uruguay (P), Vatican City (I), Vietnam (I), Yugoslavia (I), Zambia (I).

35 U.S.C. 120. Benefit of earlier filing date in the United States. An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States by the same inventor shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application.

56. Improper applications. Any application signed or sworn to in blank, or without actual inspection by the applicant, and any application altered or partly filled in after being signed or sworn to, and also any application fraudulently filed or in connection with which any fraud is practiced or attempted on the Patent Office, may be stricken from the files.

57. Signature. The application must be signed by the applicant in person. The signature to the oath or declaration will be accepted as the signature to the application provided the oath or declaration is attached to and refers to the petition, specification and claim to which it applies. Full names must be given, including the full first name without abbreviation, and the middle initial or name if any.

59. Papers of complete application not to be returned. The papers in a complete application will not be returned for any purpose whatever. If applicants have not preserved copies of the papers, the Office will furnish copies at the usual cost. See rule 87 for return of drawing.

PETITION

61. Petition. (a) The petition must be addressed to the Commissioner of Patents and request the grant of a patent. The residence, and post office address of the petitioner must appear in the petition if not stated elsewhere in the application. The petition need not be separately signed when part of and attached to the specification and oath or declaration, otherwise it must be signed by the petitioner.

(b) The power of attorney or authorization of agent may be incorporated in the petition.

STATEMENT; OATH OR DECLARATION

65. Statement of applicant. (a) (1) The applicant, if the inventor, must state that he verily believes himself to be the original and first inventor or discoverer of the process, machine, manufacture, composition of matter, or improvement thereof, for which he solicits a patent; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, and shall state of what country he is a citizen and where he resides and whether he is a sole or joint inventor of the invention claimed in his application. In every original application the applicant must distinctly state that to the best of his knowledge and belief the invention has not been in public use or on sale in the United States more than one year prior to his application or patented or described in any printed publication in any country before his invention or more than one year prior to his application, or patented in any foreign country prior to the date of his application on an application filed by himself or his legal representatives or assigns more than twelve months prior to his application in this country. He shall state whether or not any application for patent on the same invention has been filed in any foreign country, either by himself, or by his legal representatives or assigns. If any such application has been filed, the applicant shall name the country in which the earliest such application was filed, and shall give the day, month, and year of its filing; he shall also identify by country and by day, month, and year of filing, every such foreign application filed more than twelve months before the filing of the application in this country. (2) This statement (i) must be subscribed to by the applicant, and (ii) must either (a) be sworn to (or affirmed) as provided in rule 66, or (b) include the personal declaration of the applicant as prescribed in rule 68. See rule 153 for design cases and rule 162 for plant cases.

(b) If the application is made as provided in rules 42, 43, or 47, the applicant shall state his relationship to the inventor and, upon information and belief, the facts which the inventor is required by this section to state.

(c) An additional statement may be required if the application has not been filed in the Patent Office within a reasonable time after execution of the original statement.

35 U.S.C. 115. Oath of applicant. The applicant shall make oath that he believes himself to be the original and first inventor of the process, machine, manufacture, or composition of matter, or improvement thereof, for which he solicits a patent; and shall state of what country he is a citizen. Such oath may be made before any person within the United States authorized by law to administer oaths, or, when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any officer having an official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by certificate of a

diplomatic or consular officer of the United States, and such oath shall be valid if it complies with the laws of the state or country where made. When the application is made as provided in this title by a person other than the inventor, the oath may be so varied in form that it can be made by him.

35 U.S.C. 25. Declaration in lieu of oath. (a) The Commissioner may by rule prescribe that any document to be filed in the Patent Office and which is required by any law, rule, or other regulation to be under oath may be subscribed to by a written declaration in such form as the Commissioner may prescribe, such declaration to be in lieu of the oath otherwise required.

(b) Whenever such written declaration is used, the document must warn the declarant that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001).

35 U.S.C. 26. Effect of defective execution. Any document to be filed in the Patent Office and which is required by any law, rule, or other regulation to be executed in a special manner may be provisionally accepted by the Commissioner despite a defective execution, provided a properly executed document is submitted within such time as may be prescribed.

66. Officers authorized to administer oaths. (a) The oath or affirmation may be made before any person within the United States authorized by law to administer oaths, or, when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any officer having an official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States, the oath being attested in all cases in this and other countries, by the proper official seal of the officer before whom the oath or affirmation is made. Such oath or affirmation shall be valid as to execution if it complies with the laws of the state or country where made. When the person before whom the oath or affirmation is made in this country is not provided with a seal, his official character shall be established by competent evidence, as by a certificate from a clerk of a court of record or other proper officer having a seal.

(b) When the oath is taken before an officer in a country foreign to the United States, all the application papers, except the drawings, must be attached together and a ribbon passed one or more times through all the sheets of the application, except the drawings, and the ends of said ribbon brought together under the seal before the latter is affixed and impressed, or each sheet must be impressed with the official seal of the officer before whom the oath is taken. If the papers as filed are not properly ribboned or each sheet impressed with the seal, the case will be accepted for examination, but before it is allowed, duplicate papers, prepared in compliance with the foregoing sentence, must be filed.

67. Supplemental oath or declaration for matter not originally claimed. (a) When an applicant presents a claim for matter originally shown or described but not substantially embraced in the state-

ment of invention or claim originally presented, he shall file a supplemental oath or declaration to the effect that the subject matter of the proposed amendment was part of his invention; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, or patented or described in any printed publication in any country before his invention or discovery thereof, or more than one year before his application, or in public use or on sale in the United States for more than one year before the date of his application, that said invention has not been patented in any foreign country prior to the date of his application in this country on an application filed by himself or his legal representatives or assigns more than twelve months prior to his application in the United States, and has not been abandoned. Such supplemental oath or declaration should accompany and properly identify the proposed amendment, otherwise the proposed amendment may be refused consideration.

(b) In proper cases the oath or declaration here required may be made on information and belief by an applicant other than inventor.

68. Declaration in lieu of application oath. (a) The applicant may, in lieu of making an oath or affirmation in the manner provided by rule 66, set forth in the body of the statement required from him by rule 65 his written declaration that all statements made of his own knowledge are true and that all statements made on information and belief are believed to be true, if, and only if, the applicant is, on the same paper, warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon.

(b) A written declaration by the applicant satisfying the foregoing conditions, may also be used in lieu of an oath when presenting a claim for matter not originally claimed (rule 67), when applying for a reissue patent (rules 171 and 172), when applying for a patent for a design (rules 151 and 153), and when applying for a patent for a plant (rules 161 and 162).

SPECIFICATION

71. Detailed description and specification of the invention. (a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

(b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a spe-

cific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.

(c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

35 U.S.C. 112. Specifications. The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention. A claim may be written in independent or dependent form, and if in dependent form, it shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim.

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

72. Title of the invention. The title of the invention, which should be as short and specific as possible, should appear as a heading on the first page of the specification, if it does not otherwise appear at the beginning of the application.

73. Summary of the invention. A brief summary of the invention indicating its nature and substance, which may include a statement of the object of the invention, should precede the detailed description. Such summary should, when set forth, be commensurate with the invention as claimed and any object recited should be that of the invention as claimed.

74. Reference to drawings. When there are drawings, there shall be a brief description of the several views of the drawings and the detailed description of the invention shall refer to the different views by specifying the numbers of the figures, and to the different parts by use of reference letters or numerals (preferably the latter).

75. Claim. (a) The specification must conclude with a claim particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention or discovery.

(b) More than one claim may be presented provided they differ substantially from each other and are not unduly multiplied.

(c) When more than one claim is presented, they may be placed in dependent form in which a claim may refer back to and further restrict a single preceding claim.

(d) The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.

See rules 141 to 147 as to claiming different inventions in one application.

76. Signature to the specification. When the oath or declaration is attached to and refers to the petition, specification and claim to which it applies, the specification need not be signed. Otherwise it must be signed by the applicant in person.

77. Arrangement of specification. The following order of arrangement should be observed in framing the specification:

(a) Title of the invention; or a preamble stating the name, citizenship and residence of the applicant and the title of the invention may be used.

(b) Brief summary of the invention.

(c) Brief description of the several views of the drawing, if there are drawings.

(d) Detailed description.

(e) Claim or claims.

(f) Signature. (See rule 76.)

78. Cross-references to other applications. (a) When an applicant files an application claiming an invention disclosed in a prior filed copending application of the same applicant, the second application must contain or be amended to contain a reference in the specification to the prior application, identifying it by serial number and filing date and indicating the relationship of the applications, if the benefit of the filing date of the prior application is claimed; if no such reference is made the prior application must be referred to in a separate paper filed in the later application. Cross-references to other related applications may be made when appropriate. (See rule 14(b).)

(b) Where two or more applications filed by the same applicant, or owned by the same party, contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention in more than one application.

79. Reservation clauses not permitted. A reservation for a future application of subject matter disclosed but not claimed in a pending application will not be permitted in the pending application, but an application disclosing unclaimed subject matter may contain a reference to a later filed application of the same applicant or owned by a common assignee disclosing and claiming that subject matter.

THE DRAWINGS

81. Drawings required. The applicant for patent is required by statute to furnish a drawing of his invention whenever the nature of the case admits of it; this drawing must be filed with the application. Illustrations facilitating an understanding of the invention (for example, flow sheets in cases of processes, and diagrammatic views) may also be furnished in the same manner as drawings, and may be required by the Office when considered necessary or desirable.

35 U.S.C. 113. Drawings. **When the nature of the case admits, the applicant shall furnish a drawing.**

82. Signature to drawing. Signatures are not required on the drawing if it accompanies and is referred to in the other papers of the application, otherwise the drawing must be signed. The drawing may be signed by the applicant in person or have the name of the applicant placed thereon followed by the signature of the attorney or agent as such.

83. Content of drawing. The drawing must show every feature of the invention specified in the claims. When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

84. Standards for drawings. The complete drawing is printed and published when the patent issues, and a copy is attached to the patent. This work is done by the photolithographic process, the sheets of drawings being reduced about one-third in size. In addition, a reduction of a selected portion of the drawings of each application is published in the Official Gazette. It is therefore necessary for these and other reasons that the character of each drawing be brought as nearly as possible to a uniform standard of execution and excellence, suited to the requirements of the reproduction process and of the use of the drawings, to give the best results in the interests of inventors, of the Office, and of the public. The following regulations with respect to drawings are accordingly prescribed:

(a) *Paper and ink.* Drawings must be made upon pure white paper of a thickness corresponding to two-ply or three-ply bristol-board. The surface of the paper must be calendered and smooth and of a quality which will permit erasure and correction. India ink alone must be used for pen drawings to secure perfectly black solid lines. The use of white pigment to cover lines is not acceptable.

(b) *Size of sheet and margins.* The size of a sheet on which a drawing is made must be exactly 10 by 15 inches. One inch from its edges a single marginal line is to be drawn, leaving the "sight" precisely 8 by 13 inches. Within this margin all work must be included. One of the shorter sides of the sheet is regarded as its top, and, measuring down from the marginal line, a space of not less than 1¼ inches is to be left blank for the heading of title, name, number, and date, which will be applied subsequently by the Office in a uniform style.

(c) *Character of lines.* All drawings must be made with drafting instruments or by photolithographic process which will give them satisfactory reproduction characteristics. Every line and letter (signatures included) must be absolutely black. This direction applies to all lines however fine, to shading, and to lines representing cut surfaces in sectional views. All lines must be clean, sharp, and solid, and fine or crowded lines should be avoided. Solid black should not be used for sectional or surface shading. Freehand work should be avoided wherever it is possible to do so.

(d) *Hatching and shading.* (1) Hatching should be made by oblique parallel lines, which may be not less than about one-twentieth inch apart.

(2) Heavy lines on the shade side of objects should be used except where they tend to thicken the work and obscure reference characters. The light should come from the upper left hand corner at an angle of 45°. Surface delineations should be shown by proper shading, which should be open.

(e) *Scale.* The scale to which a drawing is made ought to be large enough to show the mechanism without crowding when the drawing is reduced in reproduction, and views of portions of the mechanism on a larger scale should be used when necessary to show details clearly; two or more sheets should be used if one does not give sufficient room to accomplish this end, but the number of sheets should not be more than is necessary.

(f) *Reference characters.* The different views should be consecutively numbered figures. Reference numerals (and letters, but numerals are preferred) must be plain, legible and carefully formed, and not be encircled. They should, if possible, measure at least one-eighth of an inch in height so that they may bear reduction to one twenty-fourth of an inch; and they may be slightly larger when there is sufficient room. They must not be so placed in the close and complex parts of the drawing as to interfere with a thorough comprehension of the

same, and therefore should rarely cross or mingle with the lines. When necessarily grouped around a certain part, they should be placed at a little distance, at the closest point where there is available space, and connected by lines with the parts to which they refer. They should not be placed upon hatched or shaded surfaces but when necessary, a blank space may be left in the hatching or shading where the character occurs so that it shall appear perfectly distinct and separate from the work. The same part of an invention appearing in more than one view of the drawing must always be designated by the same character, and the same character must never be used to designate different parts.

(g) *Symbols, legends.* Graphical drawing symbols for conventional elements may be used when appropriate, subject to approval by the Office. The elements for which such symbols are used must be adequately identified in the specification. While descriptive matter on drawings is not permitted, suitable legends may be used, or may be required, in proper cases, as in diagrammatic views and flowsheets or to show materials. Arrows may be required, in proper cases, to show direction of movement. The lettering should be as large as, or larger than, the reference characters.

(h) *Location of signature and names.* The signature of the applicant or the name of the applicant and signature of the attorney or agent, may be placed in the lower right-hand corner of each sheet within the marginal line, or may be placed below the lower marginal line.

(i) *Views.* The drawing must contain as many figures as may be necessary to show the invention; the figures should be consecutively numbered if possible in the order in which they appear. The figures may be plan, elevation, section, or perspective views, and detail views of portions or elements, on a larger scale if necessary, may also be used. Exploded views, with the separated parts of the same figure embraced by a bracket, to show the relationship or order of assembly of various parts are permissible. When necessary, a view of a large machine or device in its entirety may be broken and extended over several sheets if there is no loss in facility of understanding the view (the different parts should be identified by the same figure number but followed by the letters, *a*, *b*, *c*, etc., for each part). The plane upon which a sectional view is taken should be indicated on the general view by a broken line, the ends of which should be designated by numerals corresponding to the figure number of the sectional view and have arrows applied to indicate the direction in which the view is taken. A moved position may be shown by a broken line superimposed upon a suitable figure if this can be done without crowding, otherwise a separate figure must be used for this purpose. Modified forms of construction can only be shown in separate figures. Views should not be connected by projection lines nor should centerlines be used.

(j) *Arrangement of views.* All views on the same sheet must stand in the same direction and should, if possible, stand so that they can be read with the sheet held in an upright position. If views longer than the width of the sheet are necessary for the clearest illustration of the invention, the sheet may be turned on its side. The space for a heading must then be reserved at the right and the signatures placed at the left, occupying the same space and position on the sheet as in the upright views and being horizontal when the sheet is held in an upright position. One figure must not be placed upon another or within the outline of another.

(k) *Figure for Official Gazette.* The drawing should, as far as possible, be so planned that one of the views will be suitable for publication in the Official Gazette as the illustration of the invention.

(l) *Extraneous matter.* An agent's or attorney's stamp, or address, or other extraneous matter, will not be permitted upon the face of a drawing, within or without the marginal line, except that the title of the invention and identifying indicia, to distinguish from other drawings filed at the same time, may be placed below the lower margin.

(m) *Transmission of drawings.* Drawing transmitted to the Office should be sent flat, protected by a sheet of heavy binder's board, or may be rolled for transmission in a suitable mailing tube; but must never be folded. If received creased or mutilated, new drawings will be required. (See rule 152 for design drawings, 165 for plant drawings, and 174 for reissue drawings.)

85. Informal drawings. The requirements of rule 84 relating to drawings will be strictly enforced. A drawing not executed in conformity thereto may be admitted for purpose of examination, but in such case the drawing must be corrected or a new one furnished, as required. The necessary corrections will be made by the Office upon applicant's request and at his expense. (See rule 21.)

86. Draftsman to make drawings. (a) Applicants are advised to employ competent draftsmen to make their drawings.

(b) The Office may furnish the drawings at the applicant's expense as promptly as its draftsmen can make them, for applicants who cannot otherwise conveniently procure them. (See rule 21.)

87. Return of drawings. (a) The drawing of an accepted application will not be returned to the applicant except for signature.

(b) A photographic print is made of the drawing of an accepted application.

88. Use of old drawings. If the drawings of a new application are to be identical with the drawings of a previous application of the applicant on file in the Office, or with part of such drawings, the

old drawings or any sheets thereof may be used if the prior application is, or is about to be, abandoned, or if the sheets to be used are cancelled in the prior application. The new application must be accompanied by a letter requesting the transfer of the drawings, which should be completely identified.

MODELS, EXHIBITS, SPECIMENS

91. Models not generally required as part of application or patent. Models were once required in all cases admitting a model, as a part of the application, and these models became a part of the record of the patent. Such models are no longer generally required (the description of the invention in the specification, and the drawings, must be sufficiently full and complete, and capable of being understood, to disclose the invention without the aid of a model), and will not be admitted unless specifically called for.

35 U.S.C. 114. Models, specimens. The Commissioner may require the applicant to furnish a model of convenient size to exhibit advantageously the several parts of his invention.

When the invention relates to a composition of matter, the Commissioner may require the applicant to furnish specimens or ingredients for the purpose of inspection or experiment.

92. Model or exhibit may be required. A model, working model, or other physical exhibit, may be required if deemed necessary for any purpose on examination of the application.

93. Specimens. When the invention relates to a composition of matter, the applicant may be required to furnish specimens of the composition, or of its ingredients or intermediates, for the purpose of inspection or experiment.

94. Return of models, exhibits or specimens. Models, exhibits, or specimens in applications which have become abandoned, and also in other applications on conclusion of the prosecution, may be returned to the applicant upon demand and at his expense, unless it be deemed necessary that they be preserved in the Office. Such physical exhibits in contested cases may be returned to the parties at their expense. If not claimed within a reasonable time, they may be disposed of at the discretion of the Commissioner.

95. Copies of exhibits. Copies of models or other physical exhibits will not ordinarily be furnished by the Office, and any model or exhibit in an application or patent shall not be taken from the Office except in the custody of an employee of the Office specially authorized by the Commissioner.

EXAMINATION OF APPLICATIONS

101. Order of examination. (a) Applications filed in the Patent Office and accepted as complete applications (rules 53 and 55) are assigned for examination to the respective examining divisions having the classes of inventions to which the applications relate. Applications shall be taken up for examination by the examiner to whom they have been assigned in the order in which they have been filed.

(b) Applications which have been acted upon by the examiner, and which have been placed by the applicant in condition for further action by the examiner (amended applications) shall be taken up for action in such order as shall be determined by the Commissioner.

102. Advancement of examination. (a) Applications will not be advanced out of turn for examination or for further action except as provided by these rules, or upon order of the Commissioner to expedite the business of the Office, or upon a verified showing which, in the opinion of the Commissioner, will justify so advancing it.

(b) Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason, may be advanced for examination.

103. Suspension of action. (a) Suspension of action by the Office will be granted at the request of the applicant for good and sufficient cause and for a reasonable time specified. Only one suspension may be granted by the primary examiner; any further suspension must be approved by the Commissioner.

(b) If action on an application is suspended when not requested by the applicant, the applicant shall be notified of the reasons therefor.

(c) Action by the examiner may be suspended by order of the Commissioner in the case of applications owned by the United States whenever publication of the invention by the granting of a patent thereon might be detrimental to the public safety or defense, at the request of the appropriate department or agency.

104. Nature of examination; examiner's action. (a) On taking up an application for examination, the examiner shall make a thorough study thereof and shall make a thorough investigation of the available prior art relating to the subject matter of the invention sought to be patented. The examination shall be complete with respect both to compliance of the application with the statutes and rules and to the patentability of the invention as claimed, as well as with respect to matters of form, unless otherwise indicated.

(b) The applicant will be notified of the examiner's action. The

reasons for any adverse action or any objection or requirement will be stated and such information or references will be given as may be useful in aiding the applicant to judge of the propriety of continuing the prosecution of his application.

35 U.S.C. 131. Examination of application. The Commissioner shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Commissioner shall issue a patent therefor.

35 U.S.C. 132. Notice of rejection; reexamination. Whenever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Commissioner shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application; and if after receiving such notice, the applicant persists in his claim for a patent, with or without amendment, the application shall be reexamined. No amendment shall introduce new matter into the disclosure of the invention.

105. Completeness of examiner's action. The examiner's action will be complete as to all matters, except that in appropriate circumstances, such as misjoinder of invention, fundamental defects in the application, and the like, the action of the examiner may be limited to such matters before further action is made. However, matters of form need not be raised by the examiner until a claim is found allowable.

106. Rejection of claims. (a) If the invention is not considered patentable, or not considered patentable as claimed, the claims, or those considered unpatentable will be rejected.

(b) In rejecting claims for want of novelty or for want of invention, the examiner must cite the best references at his command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not obvious, must be clearly explained and each rejected claim specified.

107. Citation of references. If domestic patents be cited, their numbers and dates, the names of the patentees, and the classes of inventions must be stated. If foreign patents be cited, their nationality or country, numbers and dates, and the names of the patentees must be stated, and such other data must be furnished as may be necessary to enable the applicant to identify the patents cited. In citing foreign patents, the number of pages of specification and sheets of drawing must be specified, and in case part only of the patent be involved, the particular pages and sheets containing the parts relied upon must be identified. If printed publications be cited, the author (if any), title, date, pages or plates, and place of publication, or place where a copy

can be found, shall be given. When a rejection is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

108. Abandoned and forfeited applications not cited. Abandoned and forfeited applications as such will not be cited as references.

ACTION BY APPLICANT AND FURTHER CONSIDERATION

111. Reply by applicant. (a) After the Office action, if adverse in any respect, the applicant, if he persist in his application for a patent, must reply thereto and may request reexamination or reconsideration, with or without amendment.

(b) In order to be entitled to reexamination or reconsideration, the applicant must make request therefor in writing, and he must distinctly and specifically point out the supposed errors in the examiner's action; the applicant must respond to every ground of objection and rejection in the prior Office action (except that request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until a claim is allowed), and the applicant's action must appear throughout to be a bona fide attempt to advance the case to final action. A general allegation that the claims define invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this rule.

(c) In amending an application in response to a rejection, the applicant must clearly point out the patentable novelty which he thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He must also show how the amendments avoid such references or objections. (See rules 135 and 136 for time for reply.)

112. Reexamination and reconsideration. After response by applicant (rule 111) the application will be reexamined and reconsidered, and the applicant will be notified if claims are rejected, or objections or requirements made, in the same manner as after the first examination. Applicant may respond to such Office action, in the same manner provided in rule 111, with or without amendment, but any amendments after the second Office action must ordinarily be restricted to the rejection or to the objections or requirements made, and the application will be again considered, and so on repeatedly, unless the examiner has indicated that the action is final.

113. Final rejection or action. (a) On the second or any subsequent examination or consideration, the rejection or other action may be made final, whereupon applicant's response is limited to appeal in the case of rejection of any claim (rule 191), or to amendment as specified in rule 116. Petition may be taken to the Commissioner in the case of objections or requirements not involved in the rejection of any claim (rule 181). Response to a final rejection or action must include cancellation of, or appeal from the rejection of, each claim so rejected and, if any claim stands allowed, compliance with any requirement or objection as to form.

(b) In making such final rejection, the examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the case, clearly stating the reasons therefor.

AMENDMENTS

115. Amendment by applicant. The applicant may amend before or after the first examination and action, and also after the second or subsequent examination or reconsideration as specified in rule 112 or when and as specifically required by the examiner.

116. Amendments after final action. (a) After final rejection or action (rule 113) amendments may be made canceling claims or complying with any requirements of form which has been made, and amendments presenting rejected claims in better form for consideration or appeal may be admitted; but the admission of any such amendment or its refusal, and any proceedings relative thereto, shall not operate to relieve the application from its condition as subject to appeal or to save it from abandonment under rule 135.

(b) If amendments touching the merits of the application be presented after final rejection, or after appeal has been taken, or when such amendment might not otherwise be proper, they may be admitted upon a showing of good and sufficient reasons why they are necessary and were not earlier presented.

(c) No amendment can be made as a matter of right in appealed cases. After decision on appeal, amendments can only be made as provided in rule 198, or to carry into effect a recommendation under rule 196.

117. Amendment and revision required. The specification, claims and drawing must be amended and revised when required, to correct inaccuracies of description and definition or unnecessary prolixity, and to secure correspondence between the claims, the specification and the drawing.

118. Amendment of disclosure. In original applications, all amendments of the drawings or specifications, and all additions thereto, must conform to at least one of them as it was at the time of the filing of the application. Matter not found in either, involving a departure from or an addition to the original disclosure, cannot be added to the application even though supported by a supplemental oath, and can be shown or claimed only in a separate application.

119. Amendment of claims. The claims may be amended by canceling particular claims, by presenting new claims, or by amending the language of particular claims (such amended claims being in effect new claims). The requirements of rule 111 must be complied with by pointing out the specific distinctions believed to render the claims patentable over the references in presenting arguments in support of new claims and amendments.

121. Manner of making amendments. Erasures, additions, insertions, or alterations of the papers and records must not be made by the applicant. Amendments are made by filing a paper (which should conform to rule 52), directing or requesting that specified amendments be made. The exact word or words to be stricken out or inserted in the application must be specified and the precise point indicated where the deletion or insertion is to be made.

122. Entry and consideration of amendments. (a) Amendments are "entered" by the Office by making the proposed deletions by drawing a line in red ink through the word or words canceled, and by making the proposed substitutions or insertions in red ink, small insertions being written in at the designated place and larger insertions being indicated by reference.

(b) Ordinarily all amendments presented in a paper filed while the application is open to amendments are entered and considered, subsequent cancellation or correction being required of improper amendments. Untimely amendatory papers may be refused entry and consideration in whole or in part.

123. Amendments to the drawing. (a) No change in the drawing may be made except by permission of the Office. Permissible changes in the construction shown in any drawing may be made only by the Office. A sketch in permanent ink showing proposed changes, to become part of the record, must be filed. The paper requesting amendments to the drawing should be separate from other papers. The drawing may not be withdrawn from the Office except for signature.

(b) Substitute drawings will not ordinarily be admitted in any case unless required by the Office.

124. Amendment of amendments. When an amendatory clause is to be amended, it should be wholly rewritten and the original insertion canceled, so that no interlineations or deletions shall appear in the clause as finally presented. Matter canceled by amendment can be reinstated only by a subsequent amendment presenting the canceled matter as a new insertion.

125. Substitute specification. If the number or nature of the amendments shall render it difficult to consider the case, or to arrange the papers for printing or copying, the examiner may require the entire specification or claims, or any part thereof, to be rewritten. A substitute specification will ordinarily not be accepted unless it has been required by the examiner.

126. Numbering of claims. The original numbering of the claims must be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When claims are added by amendment or substituted for canceled claims, they must be numbered by the applicant consecutively beginning with the number next following the highest numbered claim previously presented (whether entered or not). When the application is ready for allowance, the examiner, if necessary, will renumber the claims consecutively in the order in which they appear or in such order as may have been requested by applicant.

127. Petition from refusal to admit amendment. From the refusal of the primary examiner to admit an amendment, in whole or in part, a petition will lie to the Commissioner under rule 181.

AFFIDAVITS OVERCOMING REJECTIONS

131. Affidavit of prior invention to overcome cited patent or publication. (a) When any claim of an application is rejected on reference to a domestic patent which substantially shows or describes but does not claim the rejected invention, or on reference to a foreign patent or to a printed publication, and the applicant shall make oath to facts showing a completion of the invention in this country before the filing date of the application on which the domestic patent issued, or before the date of the foreign patent, or before the date of the printed publication, then the patent or publication cited shall not bar the grant of a patent to the applicant, unless the date of such patent or printed publication be more than one year prior to the date on which the application was filed in this country.

(b) The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from said date

to a subsequent reduction to practice or to the filing of the application. Original exhibits of drawings or records, or photocopies thereof, must accompany and form part of the affidavit or their absence satisfactorily explained.

132. Affidavits traversing grounds of rejection. When any claim of an application is rejected on reference to a domestic patent which substantially shows or describes but does not claim the invention, or on reference to a foreign patent, or to a printed publication, or to facts within the personal knowledge of an employee of the Office, or when rejected upon a mode or capability of operation attributed to a reference, or because the alleged invention is held to be inoperative or lacking in utility, or frivolous or injurious to public health or morals, affidavits traversing these references or objections may be received.

21 U.S.C. 372. (Federal Food, Drug, and Cosmetic Act).

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(d) *Information on patents for drugs.* The Secretary is authorized and directed, upon request from the Commissioner of Patents, to furnish full and complete information with respect to such questions relating to drugs as the Commissioner may submit concerning any patent application. The Secretary is further authorized, upon receipt of any such request, to conduct or cause to be conducted, such research as may be required. (As amended Oct 10, 1962, Pub. L. 87-781, title III, §§ 307(b), 308, 76 Stat. 796.)

INTERVIEWS

133. Interviews. (a) Interviews with examiners concerning applications and other matters pending before the Office must be had in the examiners' rooms at such times, within office hours, as the respective examiners may designate. Interviews will not be permitted at any other time or place without the authority of the Commissioner. Interviews for the discussion of the patentability of pending applications will not be had before the first official action thereon. Interviews should be arranged for in advance.

(b) In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as waranting favorable action must be filed by the applicant. An interview does not remove the necessity for response to Office actions as specified in rules 111, 135.

TIME FOR RESPONSE BY APPLICANT; ABANDONMENT OF APPLICATION

135. Abandonment for failure to respond within time limit. (a) If an applicant fails to prosecute his application within six months after the date when the last official notice of any action by the

Office was mailed to him, or within such shorter time as may be fixed (rule 136), the application will become abandoned.

(b) Prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last official action, or refusal to admit the same, and any proceedings relative thereto, shall not operate to save the application from abandonment.

(c) When action by the applicant is a bona fide attempt to advance the case to final action, and is substantially a complete response to the examiner's action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, opportunity to explain and supply the omission may be given before the question of abandonment is considered.

(d) Prompt ratification or filing of a correctly signed copy may be accepted in case of an unsigned or improperly signed paper. (See rule 7.)

35 U.S.C. 133. Time for prosecuting application. Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

35 U.S.C. 267. Time for taking action in Government applications. Notwithstanding the provisions of sections 133 and 151 of this title, the Commissioner may extend the time for taking any action to three years, when an application has become the property of the United States and the head of the appropriate department or agency of the Government has certified to the Commissioner that the invention disclosed therein is important to the armament or defense of the United States.

136. Time less than six months. (a) An applicant may be required to prosecute his application in a shorter time than six months, but not less than thirty days, whenever such shorter time is deemed necessary or expedient. Unless the applicant is notified in writing that response is required in less than six months, the maximum period of six months is allowed.

(b) The time for reply, when a time less than six months has been set, will be extended only for good and sufficient cause, and for a reasonable time specified. Any request for such extension must be filed on or before the day on which action by the applicant is due, but in no case will the mere filing of the request effect any extension. Only one extension may be granted by the primary examiner in his discretion; any further extension must be approved by the Commissioner. In no case can any extension carry the date on which response to an action is due beyond six months from the date of the action.

137. Revival of abandoned application. An application abandoned for failure to prosecute may be revived as a pending application if it is shown to the satisfaction of the Commissioner that the delay was unavoidable. A petition to revive an abandoned application must be accompanied by a verified showing of the causes of the delay, by the proposed response unless it has been previously filed, and by the petition fee.

138. Express abandonment. An application may be expressly abandoned by filing in the Patent Office a written declaration of abandonment, signed by the applicant himself and the assignee of record, if any, and identifying the application.

JOINDER OF INVENTIONS IN ONE APPLICATION; RESTRICTION

141. Different inventions in one application. Two or more independent and distinct inventions may not be claimed in one application, except that more than one species of an invention, not to exceed five, may be specifically claimed in different claims in one application, provided the application also includes an allowable claim generic to all the claimed species and all the claims to each species in excess of one are written in dependent form (rule 75) or otherwise include all the limitations of the generic claim.

35 U.S.C. 121. Divisional applications. If two or more independent and distinct inventions are claimed in one application, the Commissoner may require the application to be restricted to one of the inventions. If the other invention is made the subject of a divisional application which complies with the requirements of section 120 of this title it shall be entitled to the benefit of the filing date of the original application. A patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such a requirement, shall not be used as a reference either in the Patent Office or in the courts against a divisional application or against the original application or any patent issued on either of them, if the divisional application is filed before the issuance of the patent on the other application. If a divisional application is directed solely to subject matter described and claimed in the original application as filed, the Commissioner may dispense with signing and execution by the inventor. The validity of a patent shall not be questioned for failure of the Commissioner to require the application to be restricted to one invention.

142. Requirement for restriction. (a) If two or more independent and distinct inventions are claimed in a single application, the examiner in his action shall require the applicant in his response to that action to elect that invention to which his claims shall be restricted, this official action being called a requirement for restriction (also known as a requirement for division). If the distinctness and independence of the inventions be clear, such requirement will be

made before any action on the merits; however, it may be made at any time before final action in the case, at the discretion of the examiner.

(b) Claims to the invention or inventions not elected, if not canceled, are nevertheless withdrawn from further consideration by the examiner by the election, subject however to reinstatement in the event the requirement for restriction is withdrawn or overruled.

143. Reconsideration of requirement. If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See rule 111.) In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected.

144. Petition from requirement for restriction. After a final requirement for restriction, the applicant, in addition to making any response due on the remainder of the action, may petition the Commissioner to review the requirement. Petition may be deferred until after final action on or allowance of claims to the invention elected, but must be filed not later than appeal. A petition will not be considered if reconsideration of the requirement was not requested. (See rule 181.)

145. Subsequent presentation of claims for different invention. If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in rules 143 and 144.

146. Election of species. In the first action on an application containing a generic claim and claims restricted separately to each of more than one species embraced thereby, the examiner, if of the opinion after a complete search on the generic claims that no generic claim presented is allowable, shall require the applicant in his response to that action to elect that species of his invention to which his claims shall be restricted if no generic claim is finally held allowable. However, if such applicaton contains claims directed to more than five species, the examiner may require restriction of the claims to not more than five species before taking any further action in the case.

147. Separate application for invention not elected. The non-elected inventions, those not elected after a requirement for restriction (rule 142), may be made the subjects of separate applications, which must conform to the rules applicable to original applications and which will be examined in the same manner as original applications. However, if such an application is filed before the patenting or abandonment of or termination of proceedings on the original application, and if the drawings are identical and the application papers comprise a copy of the original application as filed, prepared and certified by the Patent Office, together with a proposed amendment canceling the irrelevant claims or other matter signing and execution by the applicant may be omitted.

DESIGN PATENTS

151. Rules applicable. The rules relating to applications for patents for other inventions or discoveries are also applicable to applications for patents for designs except as otherwise provided.

35 U.S.C. 171. Patents for designs. Whoever invents any new, original and ornamental design for an article of manufacture may obtain a patent therefor, subject to the conditions and requirements of this title.

The provisions of this title relating to patents for inventions shall apply to patents for designs, except as otherwise provided.

35 U.S.C. 172. Right of priority. The right of priority provided for by section 119 of this title and the time specified in section 102 (d) shall be six months in the case of designs.

152. Drawing. The design must be represented by a drawing made in conformity with the rules laid down for drawings of mechanical inventions and must contain a sufficient number of views to constitute a complete disclosure of the appearance of the article. Appropriate surface shading must be used to show the character or contour of the surfaces represented.

153. Title, description and claim, oath or declaration. (a) The title of the design must designate the particular article. No description, other than a reference to the drawing, is ordinarily required. The claim shall be in formal terms to the ornamental design for the article (specifying name) as shown, or as shown and described. More than one claim is neither required nor permitted.

(b) The oath or declaration required of the applicant must comply with rule 65 except that the period of twelve months specified therein with respect to foreign applications is six months in the case of designs.

154. Arrangement of specification. The following order of arrangement should be observed in framing design specifications:

(a) Preamble, stating name of the applicant and title of the design.

(b) Description of the figure or figures of the drawing.

(c) Description, if any.
(d) Claim.
(e) Signature of applicant. (See rule 57.)

155. Issue and term of design patents. If, on examination, it shall appear that the applicant is entitled to a design patent under the law, a notice of allowance will be sent to him, his attorney or his agent, calling for the payment of an issue fee in an appropriate amount dependent on the duration of the term desired by the applicant. If this issue fee is not paid within three months of the date of the notice of allowance, the application shall be regarded as abandoned. If this fee is not timely paid but is submitted, with the fee for delayed payment, within three months of its due date with a verified showing of sufficient cause for the late payment, it may be accepted by the Commissioner as though no abandonment had ever occurred.

35 U.S.C. 173. Term of design patent. Patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant, in his application, elects.

PLANT PATENTS

161. Rules applicable. The rules relating to applications for patent for other inventions or discoveries are also applicable to applications for patents for plants except as otherwise provided.

35 U.S.C. 161. Patents for plants. Whoever invents or discovers and asexually reproduces any distinct and new variety of plant, including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuber propagated plant or a plant found in an uncultivated state, may obtain a patent therefor, subject to the conditions and requirements of this title.

The provisions of this title relating to patents for inventions shall apply to patents for plants, except as otherwise provided.

35 U.S.C. 162. Description, claim. No plant patent shall be declared invalid for noncompliance with section 112 of this title if the description is as complete as is reasonably possible.

The claim in the specification shall be in formal terms to the plant shown and described.

35 U.S.C. 163. Grant. In the case of a plant patent the grant shall be of the right to exclude others from asexually reproducing the plant or selling or using the plant so reproduced.

162. Applicant, oath or declaration. The applicant for a plant patent must be the person who has invented or discovered and asexually reproduced the new and distinct variety of plant for which a patent is sought (or as provided in rules 42, 43, and 47). The oath or declaration required of the applicant, in addition to the averments required by rule 65, must state that he has asexually reproduced the plant. Where the plant is a newly found plant the oath or declaration must also state that it was found in a cultivated area.

163. Specification. (a) The specification must contain as full and complete a disclosure as possible of the plant and the characteristics thereof that distinguish the same over related known varieties, and its antecedents, and must particularly point out where and in what manner the variety of plant has been asexually reproduced. In the case of a newly found plant, the specification must particularly point out the location and character of the area where the plant was discovered.

(b) Two copies of the specification (including the claim) must be submitted, but only one need be signed and executed; the second copy may be a legible carbon copy of the original.

164. Claim. The claim shall be in formal terms to the new and distinct variety of the specified plant as described and illustrated, and may also recite the principal distinguishing characteristics. More than one claim is not permitted.

165. Drawings. (a) Plant patent drawings are not mechanical drawings and should be artistically and competently executed. Figure numbers and reference characters need not be employed unless required by the examiner. The drawing must disclose all the distinctive characteristics of the plant capable of visual representation.

(b) The drawing may be in color and when color is a distinguishing characteristic of the new variety, the drawing must be in color. Two copies of color drawings must be submitted. Color drawings may be made either in permanent watercolor or oil, or in lieu thereof may be photographs made by color photography or properly colored on sensitized paper. The paper in any case must correspond in size, weight and quality to the paper required for other drawings.

166. Specimens. The applicant may be required to furnish specimens of the plant, or its flower or fruit, in a quantity and at a time in its stage of growth as may be designated, for study and inspection. Such specimens, properly packed, must be forwarded in conformity with instructions furnished to the applicant. When it is not possible to forward such specimens, plants must be made available for official inspection where grown.

167. Examination. (a) Applications may be submitted by the Patent Office to the Department of Agriculture for study and report.

(b) Affidavits from qualified agricultural or horticultural experts regarding the novelty and distinctiveness of the variety of plant may be received when the need for such affidavits is indicated.

Executive Order No. 5464, October 17, 1930. Facilitating the consideration of applications for plant patents. I, Herbert Hoover, President of the United States

of America, under the authority conferred upon me by act of May 23, 1930 (Public No. 245) [now 35 U.S.C. 164], entitled "An act to provide for plant patents," and by virtue of all other powers vested in me relating thereto, do hereby direct the Secretary of Agriculture: (1) to furnish the Commissioner of Patents such available information of the Department of Agriculture, or (2) to conduct through the appropriate bureau or division of the department such research upon special problems, or (3) to detail to the Commissioner of Patents such officers and employees of the department, as the Commissioner may request for the purpose of carrying said act into effect.

35 U.S.C. 164. Assistance of Department of Agriculture. The President may by Executive order direct the Secretary of Agriculture, in accordance with the requests of the Commissioner, for the purpose of carrying into effect the provisions of this title with respect to plants (1) to furnish available information of the Department of Agriculture, (2) to conduct through the appropriate bureau or division of the Department research upon special problems, or (3) to detail to the Commissioner officers and employees of the Department.

REISSUES

171. Application for reissue. An application for reissue must contain the same parts required for an application for an original patent, complying with all the rules relating thereto except as otherwise provided, and in addition, must comply with the requirements of the rules relating to reissue applications. The application must be accompanied by a certified copy of an abstract of title or an order for a title report, to be placed in the file, and by an offer to surrender the original patent (rule 178).

35 U.S.C. 251. Reissue of defective patents. Whenever any patent is, through error without any deceptive intention, deemed wholly or partly inoperative or invalid, by reason of a defective specification or drawing, or by reason of the patentee claiming more or less than he had a right to claim in the patent, the Commissioner shall, on the surrender of such patent and the payment of the fee required by law, reissue the patent for the invention disclosed in the original patent, and in accordance with a new and amended application, for the unexpired part of the term of the original patent. No new matter shall be introduced into the application for reissue.

The Commissioner may issue several reissued patents for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued patents.

The provisions of this title relating to applications for patent shall be applicable to applications for reissue of a patent, except that application for reissue may be made and sworn to by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent.

No reissued patent shall be granted enlarging the scope of the claims of the original patent unless applied for within two years from the grant of the original patent.

35 U.S.C. 252. Effect of reissue. The surrender of the original patent shall take effect upon the issue of the reissued patent, and every reissued patent shall have the same effect and operation in law, on the trial of actions for causes thereafter arising, as if the same had been originally granted in such amended form, but insofar as the claims of the original and reissued patents are identical,

such surrender shall not affect any action then pending nor abate any cause of action then existing, and the reissued patent, to the extent that its claims are identical with the original patent, shall constitute a continuation thereof, and have effect continuously from the date of the original patent.

No reissued patent shall abridge or affect the right of any person or his successors in business who made, purchased or used prior to the grant of a reissue anything patented by the reissued patent, to continue the use of, or to sell to others to be used or sold, the specific thing so made, purchased or used, unless the making, using, or selling of such thing infringes a valid claim of the reissued patent which was in the original patent. The court before which such matter is in question may provide for the continued manufacture, use or sale of the thing made, purchased or used as specified, or for the manufacture, use or sale of which substantial preparation was made before the grant of the reissue, and it may also provide for the continued practice of any process patented by the reissue, practiced, or for the practice of which substantial preparation was made, prior to the grant of the reissue, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the grant of the reissue.

172. Applicants, assignees. (a) Reissue applications must be signed and sworn to, or declaration made, by the inventors except as otherwise provided (see rules 42, 43, 47), and must be accompanied by the written assent of all assignees, if any, owning an undivided interest in the patent, but a reissue application may be made and sworn to, or declaration made, by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent.

(b) A reissue will be granted to the original patentee, his legal representatives or assigns as the interest may appear.

173. Specification. The specification of the reissue application must include the entire specification and claims of the patent, with the matter to be omitted by reissue enclosed in square brackets; and any additions made by the reissue must be underlined, so that the old and the new specifications and claims may be readily compared. Claims should not be renumbered and the numbering of claims added by reissue should follow the number of the highest numbered patent claim. No new matter shall be introduced into the specification.

174. Drawings. (a) The drawings upon which the original patent was issued may be used in reissue applications if no changes whatsoever are to be made in the drawings. In such cases, when the reissue application is filed, the applicant must submit a temporary drawing which may consist of a copy of the printed drawings of the patent or a photoprint of the original drawings securely mounted by pasting on sheets of drawing board of the size required for original drawing, or an order for the same.

(b) Amendments which can be made in a reissue drawing, that is, changes from the drawing of the patent, are restricted.

175. Reissue oath or declaration. (a) Applicants for reissue, in addition to complying with the requirements of the first sentence of rule 65, must also file with their applications a statement under oath or declaration as follows:

(1) That applicant verily believes the original patent to be wholly or partly inoperative or invalid, and the reasons why.

(2) When it is claimed that such patent is so inoperative or invalid "by reason of a defective specification or drawing," particularly specifying such defects.

(3) When it is claimed that such patent is inoperative or invalid "by reason of the patentee claiming more or less than he had a right to claim in the patent," distinctly specifying the excess or insufficiency in the claims.

(4) Particularly specifying the errors relied upon, and how they arose or occurred.

(5) That said errors arose "without any deceptive intention" on the part of the applicant.

(b) Corroborating affidavits of others may be filed and the examiner may, in any case, require additional information or affidavits concerning the application for reissue and its object.

176. Examination of reissue. An original claim, if re-presented in the reissue application, is subject to reexamination, and the entire application will be examined in the same manner as original applications, subject to the rules relating thereto, excepting that division will not be required. Applications for reissue will be acted on by the examiner in advance of other applications.

177. Reissue in divisions. The Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for each division. Each division of a reissue constitutes the subject of a separate specification descriptive of the part or parts of the invention claimed in such division; and the drawing may represent only such part or parts, subject to the provisions of rules 83 and 84. On filing divisional reissue applications, they shall be referred to the Commissioner. Unless otherwise ordered by the Commissioner, all the divisions of a reissue will issue simultaneously; if there be any controversy as to one division, the others will be withheld from issue until the controversy is ended, unless the Commissioner shall otherwise order.

178. Original patent. The application for a reissue must be accompanied by an offer to surrender the original patent. The application should also be accompanied by the original patent, or if the original is lost or inaccessible, by an affidavit to that effect. The ap-

plication may be accepted for examination in the absence of the original patent or the affidavit, but one or the other must be supplied before the case is allowed. If a reissue be refused, the original patent will be returned to applicant upon his request.

179. Notice of reissue application. When an application for a reissue is filed, there will be placed in the file of the original patent a notice stating that an application for reissue has been filed. When the reissue is granted or the reissue application is otherwise terminated, the fact will be added to the notice in the file of the original patent.

PETITIONS AND ACTION BY THE COMMISSIONER

181. Petition to the Commissioner. (a) Petition may be taken to the Commissioner (1) from any action or requirement of any examiner in the ex parte prosecution of an application which is not subject to appeal to the Board of Appeals or to the court; (2) in cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) to invoke the supervisory authority of the Commissioner in appropriate circumstances.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, it may be required that there have been a proper request for reconsideration (rule 111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his decision upon the matters averred in the petition, supplying a copy thereof to the petitioner.

(d) No fee is required for a petition to the Commissioner except in the case of a petition to revive an abandoned application (rule 137) or for the delayed payment of a final fee (rule 317).

(e) Oral hearing will not be granted except when considered necessary by the Commissioner.

(f) Except as otherwise provided in these rules, any such petition not filed within sixty days from the action complained of, may be dismissed as untimely. The mere filing of a petition will not stay the period for reply to an Examiner's action which may be running against an application, nor act as a stay of other proceedings.

(g) Determination of petitions of various kinds may be delegated by the Commissioner to the Supervisory Examiners or to the Solicitor and Law Examiners.

182. Questions not specifically provided for. All cases not specifically provided for in these rules will be decided in accordance with the merits of each case by or under the authority of the Commissioner, and such decision will be communicated to the interested parties in writing.

183. Suspension of rules. In an extraordinary situation, when justice requires any requirement of these rules which is not a requirement of the statutes may be suspended or waived by the Commissioner in person on petition of the interested party, subject to such other requirements as may be imposed.

184. Reconsideration of cases decided by former Commissioners. Cases which have been decided by one Commissioner will not be reconsidered by his successor except in accordance with the principles which govern the granting of new trials.

APPEAL TO THE BOARD OF APPEALS

191. Appeal to Board of Appeals. (a) Every applicant for a patent or for reissue of a patent, any of the claims of which have been twice rejected, or who has been given a final rejection (rule 113), may, upon the payment of the fee required by law, appeal from the decision of the primary examiner to the Board of Appeals within the time allowed for response.

(b) The appeal must identify the rejected claim or claims appealed, and must be signed by the applicant or his duly authorized attorney or agent.

(c) Except as otherwise provided by rule 206, appeal when taken must be taken from the rejection of all claims under rejection which applicant proposes to contest. Questions relating to matters not affecting the merits of the invention may be required to be settled before an appeal can be considered.

35 U.S.C. 7. Board of Appeals. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability. The Commissioner, the assistant commissioners, and the examiners-in-chief shall constitute a Board of Appeals, which, on written appeal of the applicant, shall review adverse decisions of examiners upon applications for patents. Each appeal shall be heard by at least three members of the Board of Appeals, the members hearing such appeal to be designated by the Commissioner. The Board of Appeals has sole power to grant rehearings.

Whenever the Commissioner considers it necessary to maintain the work of the Board of Appeals current, he may designate any patent examiner of the primary examiner grade or higher, having the requisite ability, to serve as ex-

aminer-in-chief for periods not exceeding six months each. An examiner so designated shall be qualified to act as a member of the Board of Appeals. Not more than one such primary examiner shall be a member of the Board of Appeals hearing an appeal. * * *

35 U.S.C. 134. Appeal to the Board of Appeals. An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Appeals, having once paid the fee for such appeal.

192. Appellant's brief. (a) The appellant shall, within sixty days from the date of the appeal, or within the time allowed for response to the action appealed from if such time is later, file a brief of the authorities and arguments on which he will rely to maintain his appeal, including a concise explanation of the invention which should refer to the drawing by reference characters, and a copy of the claims involved, at the same time indicating if he desires an oral hearing. Two extra copies of the brief are required if an oral hearing is requested. The Board of Appeals may, for sufficient cause shown, extend the time for filing the brief to a date not later than sixty days after the original expiration date. Any longer or further extension must be sought from the Commissioner. All requests for extensions must be filed prior to the expiration of the period sought to be extended.

(b) On failure to file the brief within the time allowed, the appeal shall stand dismissed.

193. Examiner's answer. (a) The primary examiner may, within such time as may be directed by the Commissioner, furnish a written statement in answer to the appellant's brief including such explanation of the invention claimed and of the references and grounds of rejection as may be necessary, supplying a copy to the appellant. If the primary examiner shall find that the appeal is not regular in form or does not relate to an appealable action, he shall so state and a petition from such decision may be taken to the Commissioner as provided in rule 181.

(b) The appellant may file a reply brief directed only to such new points of argument as may be raised in the examiner's answer, within twenty days from the date of such answer. However, if the examiner's answer states a new ground of rejection appellant may file a reply thereto within sixty days from the date of such answer; such reply may include any amendment or material appropriate to the new ground.

194. Hearing. If no request for oral hearing has been made by the appellant, the appeal will be assigned for consideration and decision. If the appellant has requested an oral hearing, a day of hearing will be set, and due notice thereof given to the appellant. Hearing will be held as stated in the notice, and oral argument will be

limited to one-half hour unless otherwise ordered before the hearing begins.

195. Affidavits after appeal. Affidavits or exhibits submitted after the case has been appealed will not be admitted without a showing of good and sufficient reasons why they were not earlier presented.

196. Decision by the Board of Appeals. (a) The Board of Appeals, in its decision, may affirm or reverse the decision of the primary examiner in whole or in part on the grounds and on the claims specified by the examiner. The affirmance of the rejection of a claim on any of the grounds specified constitutes a general affirmance of the decision of the primary examiner on that claim, except as to any ground specifically reversed.

(b) Should the Board of Appeals have knowledge of any grounds not involved in the appeal for rejecting any appealed claim, it may include in its decision a statement to that effect with its reasons for so holding, which statement shall constitute a rejection of the claims. The appellant may submit an appropriate amendment of the claims so rejected or a showing of facts, or both, and have the matter reconsidered by the primary examiner. The statement shall be binding upon the primary examiner unless an amendment or showing of facts not previously of record be made which, in the opinion of the primary examiner, avoids the additional ground for rejection stated in the decision. The applicant may waive such reconsideration before the primary examiner and have the case reconsidered by the Board of Appeals upon the same record before them. Where request for such reconsideration is made the Board of Appeals shall, if necessary, render a new decision which shall include all grounds upon which a patent is refused. The applicant may waive reconsideration by the Board of Appeals and treat the decision, including the added grounds for rejection given by the Board of Appeals, as a final decision in the case.

(c) Should the decision of the Board of Appeals include an explicit statement that a claim may be allowed in amended form, applicant shall have the right to amend in conformity with such statement which shall be binding on the primary examiner in the absence of new references or grounds of rejection.

197. Action following decision. (a) After decision by the Board of Appeals, the case shall be returned to the primary examiner, subject to the applicant's right of appeal or other review, for such further action by the applicant or by the primary examiner, as the condition of the case may require, to carry into effect the decision.

(b) Any request or petition for rehearing or reconsideration, or modification of the decision, must be filed within thirty days from the date of the original decision, unless that decision is so modified as to become, in effect, a new decision, and the Board of Appeals so states.

(c) When an appeal is or stands dismissed, or when the time for appeal to the court or review by civil action (rule 304) has expired and no such appeal or civil action has been filed, proceedings in the application are considered terminated as of the dismissal or expiration date except in those applications in which claims stand allowed or in which the nature of the decision requires further action by the examiner. If an appeal to the court or a civil action has been filed, proceedings in the application are similarly considered terminated when the appeal or civil action is terminated.

198. Reopening after decision. Cases which have been decided by the Board of Appeals will not be reopened or reconsidered by the primary examiner, except under the provisions of rule 196, without the written authority of the Commissioner, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

INTERFERENCES: DEFINITION, PREPARATION, DECLARATION

201. Definition, when declared. (a) An interference is a proceeding instituted for the purpose of determining the question of priority of invention between two or more parties claiming substantially the same patentable invention and may be instituted as soon as it is determined that common patentable subject matter is claimed in a plurality of applications or in an application and a patent.

(b) An interference will be declared between pending applications for patent, or for reissue, of different parties when such applications contain claims for substantially the same invention, which are allowable in the application of each party, and interferences will also be declared between pending applications for patent, or for reissue, and unexpired original or reissued patents, of different parties, when such applications and patents contain claims for substantially the same invention which are allowable in all of the applications involved, in accordance with the provisions of these rules.

(c) Interferences will not be declared, nor continued, between applications or applications and patents owned by the same party unless good cause is shown therefor. The parties shall make known any and all right, title, and interest affecting the ownership of any application or patent involved or essential to the proceedings, not recorded

in the Patent Office, when an interference is declared, and of changes in such right, title, or interest, made after the declaration of the interference and before the expiration of the time prescribed for seeking review of the decision in the interference.

35 U.S.C. 135. Interferences. (a) Whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicants, or applicant and patentee, as the case may be. The question of priority of invention shall be determined by a board of patent interferences (consisting of three examiners of interferences) whose decision, if adverse to the claim of an applicant, shall constitute the final refusal by the Patent Office of the claims involved, and the Commissioner may issue a patent to the applicant who is adjudged the prior inventor. A final judgment adverse to a patentee from which no appeal or other review has been or can be taken or had shall constitute cancellation of the claims involved from the patent, and notice thereof shall be endorsed on copies of the patent thereafter distributed by the Patent Office.

(b) A claim which is the same as, or for the same or substantially the same subject matter as, a claim of an issued patent may not be made in any application unless such a claim is made prior to one year from the date on which the patent was granted.

(c) Any agreement or understanding between parties to an interference, including any collateral agreements referred to therein, made in connection with or in contemplation of the termination of the interference, shall be in writing and a true copy thereof filed in the Patent Office before the termination of the interference as between the said parties to the agreement or understanding. If any party filing the same so requests, the copy shall be kept separate from the file of the interference, and made available only to Government agencies on written request, or to any person on a showing of good cause. Failure to file the copy of such agreement or understanding shall render permanently unenforceable such agreement or understanding and any patent of such parties involved in the interference or any patent subsequently issued on any application of such parties so involved. The Commissioner may, however, on a showing of good cause for failure to file within the time prescribed, permit the filing of the agreement or understanding during the six-month period subsequent to the termination of the interference as between the parties to the agreement or understanding.

The Commissioner shall give notice to the parties or their attorneys of record, a reasonable time prior to said termination, of the filing requirement of this section. If the Commissioner gives such notice at a later time, irrespective of the right to file such agreement or understanding within the six-month period on a showing of good cause, the parties may file such agreement or understanding within sixty days of the receipt of such notice.

Any discretionary action of the Commissioner under this subsection shall be reviewable under section 10 of the Administrative Procedure Act.

202. Preparation for interference between applications; preliminary inquiry of junior applicant. In order to ascertain whether any question of priority arises between applications which appear to interfere and are otherwise ready to be prepared for interference, any junior applicant may be called upon to state in writing under oath the date and the character of the earliest fact or act, susceptible of

proof, which can be relied upon to establish conception of the invention under consideration for the purpose of establishing priority of invention. The statement filed in compliance with this rule will be retained by the Patent Office separate from the application file and if an interference is declared will be opened simultaneously with the preliminary statement of the party filing the same. In case the junior applicant makes no reply within the time specified, not less than thirty days, or if the earliest date alleged is subsequent to the filing date of the senior party, the interference ordinarily will not be declared.

203. Preparation for interference between applications; suggestion of claims for interference. (a) Before the declaration of interference, it must be determined by the examiner that there is common subject matter in the cases of the respective parties, patentable to each of the respective parties, subject to the determination of the question of priority. Claims in the same language, to form the counts of the interference, must be present or be presented, in each application; except that, in cases where, owing to the nature of the disclosures in the respective applications, it is not possible for all applications to properly include a claim in identical phraseology to define the common invention, an interference may be declared, with the approval of the Commissioner, using as a count representing the interfering subject matter a claim differing from the corresponding claims of one or more of the interfering applications by an immaterial limitation or variation.

(b) When the claims of two or more applications differ in phraseology, but relate to substantially the same patentable subject matter, the examiner shall, if it has been determined that an interference should be declared, suggest to the parties such claims as are necessary to cover the common invention in the same language. The parties to whom the claims are suggested will be required to make those claims (i.e., present the suggested claims in their applications by amendment) within a specified time, not less than 30 days, in order that an interference may be declared. The failure or refusal of any applicant to make any claim suggested within the time specified, shall be taken without further action as a disclaimer of the invention covered by that claim unless the time be extended.

(c) The suggestion of claims for purpose of interference will not stay the period for response to an Office action which may be running against an application, unless the claims are made by the applicant within the time specified for making the claims.

(d) When an applicant presents a claim in his application (not suggested by the examiner as specified in this rule) which is copied from some other application, either for purpose of interference or

otherwise, he must so state, at the time he presents the claim and identify the other application.

204. Interference with a patent; affidavit by junior applicant. (a) The fact that one of the parties has already obtained a patent will not prevent an interference. Although the Commissioner has no power to cancel a patent, he may grant another patent for the same invention to a person who, in the interference, proves himself to be the prior inventor.

(b) When the effective filing date of an applicant is three months or less subsequent to the effective filing date of a patentee, the applicant, before the interference will be declared, shall file an affidavit that he made the invention in controversy in this country before the effective filing date of the patentee, or that his acts in this country with respect to the invention were sufficient to establish priority of invention relative to the effective filing date of the patentee.

(c) When the effective filing date of an applicant is more than three months subsequent to the effective filing date of the patentee, the applicant, before the interference will be declared, shall file two copies of affidavits by himself and by one or more corroborating witnesses, supported by documentary evidence if available, setting out a factual description of acts and circumstances which would prima facie entitle him to an award of priority relative to the effective filing date of the patentee, and accompanied by an explanation of the basis on which he believes that the facts set forth would overcome the effective filing date of the patentee. Upon a showing of sufficient cause, an affidavit on information and belief as to the expected testimony of a witness whose testimony is necessary to overcome the filing date of the patentee may be accepted in lieu of an affidavit by such witness. If the examiner finds the case to be otherwise in condition for the declaration of an interference he will consider this material only to the extent of determining whether a date prior to the effective filing date of the patentee is alleged, and if so, the interference will be declared.

205. Interference with a patent; copying claims from patent. (a) Before an interference will be declared with a patent, the applicant must present in his application, copies of all the claims of the patent which also define his invention and such claims must be patentable in the application. However, an interference may be declared after copying the claims excluding an immaterial limitation or variation if such immaterial limitation or variation is not clearly supported in the application or if the applicant otherwise makes a satisfactory showing in justification thereof.

(b) Where an applicant presents a claim copied or substantially copied from a patent, he must, at the time he presents the claim, identify the patent, give the number of the patented claim, and

specifically apply the terms of the copied claim to his own disclosure, unless the claim is copied in response to a suggestion by the Office. The examiner will call to the Commissioner's attention any instance of the filing of an application or the presentation of an amendment copying or substantially copying claims from a patent without calling attention to that fact and identifying the patent.

206. Interference with a patent; claims improperly copied. (a) Where claims are copied from a patent and the examiner is of the opinion that the applicant can make only some of the claims so copied, he shall notify the applicant to that effect, state why he is of the opinion the applicant cannot make the other claims and state further that the interference will be promptly declared. The applicant may proceed under rule 231, if he desires to further contest his right to make the claims not included in the declaration of the interference.

(b) Where the examiner is of the opinion that none of the claims can be made, he shall reject the copied claims stating in his action why the applicant cannot make the claims and set a time limit, not less than 30 days, for reply. If, after response by the applicant, the rejection is made final, a similar time limit shall be set for appeal. Failure to respond or appeal, as the case may be, within the time fixed will, in the absence of a satisfactory showing, be deemed a disclaimer of the invention claimed.

207. Preparation of interference papers and declaration of interference. (a) When an interference is found to exist and the applications are in condition therefor, the primary examiner shall forward the files to the Board of Patent Interferences together with a statement indicating the claims of each applicant or patentee which are to form the respective counts of the interference and also indicating whether any party is entitled to the benefit of the filing date of any prior application as to the subject matter in issue, and, if so, identifying such application.

(b) A patent interference examiner will institute and declare the interference by forwarding notices to the several parties to the proceeding. Each notice shall include the name and residence of each of the other parties and those of his attorney or agent, and of any assignee, and will identify the application of each opposing party by serial number and filing date, or in the case of a patentee by the number and date of the patent. The notices shall also specify the issue of the interference, which shall be clearly and concisely defined in only as many counts as may be necessary to define the interfering subject matter (but in the case of an interference with a patent all the claims of the patent which can be made by the applicant should constitute the counts), and shall indicate the claim or claims of the respective cases

corresponding to the count or counts. If the application or patent of a party included in the interference is a division, continuation or continuation-in-part of a prior application and the examiner has determined that it is entitled to the filing date of such prior application, the notices shall so state. Except as noted in paragraph (e) of this section, the notices shall also set a schedule of times for taking various actions as follows:

(1) For filing the preliminary statements required by rule 215 and serving notice of such filing, not less than 2 months from the date of declaration.

(2) For each party who files a preliminary statement to serve a copy thereof on each opposing party who also files a preliminary statement as required by rule 215(b), not less than 15 days after the expiration of the time for filing preliminary statements.

(3) For filing motions under rule 231, not less than 4 months from declaration.

(c) The notices of interference shall be forwarded by the patent interference examiner to all the parties, in care of their attorneys or agents; a copy of the notices will also be sent the patentees in person and, if the patent in interference has been assigned, to the assignees.

(d) When the notices sent in the interest of a patent are returned to the Office undelivered, or when one of the parties resides abroad and his agent in the United States is unknown, additional notice may be given by publication in the Official Gazette for such period of time as the Commissioner may direct.

(e) In a case where the showing required by rule 204(c) is deemed insufficient (rule 228) the notice of interference will not set the time schedule specified in paragraph (b) of this section but will be accompanied by an order to show cause by the Board of Patent Interferences as provided by rule 228.

208. Conflicting parties having same attorney. Whenever it shall be found that two or more parties whose interests appear to be in conflict are represented by the same attorney or agent, the examiner shall notify each of said principal parties and the attorney or agent of this fact, and shall also call the matter to the attention of the Commissioner. If conflicting interests exist, the same attorney or agent or his associates will not be recognized to represent either of the parties whose interests are in conflict without the consent of the other party or in the absence of special circumstances requiring such representation, in further proceedings before the Patent Office involving the matter or application or patent in which the conflicting interests exist.

211. Jurisdiction of interference. (a) Upon the institution and declaration of the interference, as provided in rule 207, the Board of

Patent Interferences will take jurisdiction of the same, which will then become a contested case.

(b) The primary examiner will retain jurisdiction of the case until the declaration of interference is made.

212. Suspension of ex parte prosecution. On declaration of the interference, ex parte prosecution of an application is suspended, and amendments and other papers received during the pendency of the interference will not be entered or considered without the consent of the Commissioner, except as provided by these rules. Proposed amendments directed toward the declaration of an interference with another party will be considered to the extent necessary. Ex parte prosecution as to specified matters may be continued concurrently with the interference, on order from or with the consent of the Commissioner.

INTERFERENCES: PRELIMINARY STATEMENT

215. Preliminary statement required. (a) Each party to the interference will be required to file a concise preliminary statement giving certain facts and dates, on or before a date fixed by the Office. The preliminary statement must be signed and sworn to by the inventor but in appropriate circumstances, as when the inventor is dead or a showing is made of inability to obtain a statement from the inventor, the preliminary statement may be made by the personal representative or assignee or by someone authorized or entitled to make the statement and having knowledge of the facts.

(b) A party who files a preliminary statement shall at the same time notify all opposing parties of that fact and by the time set for that purpose he shall serve a copy of his preliminary statement including any attached documents on every opposing party from whom he has received notification of the filing of a statement.

(c) A party who fails to serve a copy of his preliminary statement as required in paragraph (b) of this rule will be restricted to his effective filing date. (Rule 223(c).)

216. Contents of the preliminary statement. (a) The preliminary statement must state that the party made the invention set forth by each count of the interference, and whether the invention was made in the United States or abroad.

(b) When the invention was made in the United States the preliminary statement must set forth as to the invention defined by each count the following facts including a brief statement as to the specific nature of each of the respective acts alleged:

(1) The date upon which the first drawing of the invention was made; if a drawing of the invention has not been made prior to the filing date of the application, it must be so stated.

(2) The date upon which the first written description of the invention was made; if a written description of the invention has not been made prior to the filing date of the application, it must be so stated.

(3) The date upon which the invention was first disclosed to another person; if the invention was not disclosed to another person prior to the filing date of the application, it must be so stated.

(4) The date of the first act or acts susceptible of proof (other than making a drawing or written description or disclosing the invention to another person) which, if proven, would establish conception of the invention, and a brief description of such act or acts; if there have been no such acts, it must be so stated.

(5) The date of the actual reduction to practice of the invention; if the invention has not been actually reduced to practice before the filing date of the application, it must be so stated.

(6) The date after conception of the invention when active exercise of reasonable diligence toward reducing the invention to practice began.

(b) When an allegation as to the first drawing (paragraph (a) (1) of this rule and/or as to the first written description (paragraph (a) (2) of this rule is made, a copy of such drawing and/or written description must be attached to the statement.

(c) If a party intends to rely solely on a prior application, domestic or foreign, and on no other evidence, the preliminary statement may so state and need not be signed or sworn to by the inventor.

217. Contents of the preliminary statement; invention made abroad. (a) When the invention was made abroad the fact specified by rule 216 (a) (1) to (6) are not required, and in lieu thereof there should be stated:

(1) When the invention was introduced into this country by or on behalf of the party, giving the circumstances with the dates connected therewith which are relied upon to establish the fact and, when appropriate, including allegations of activity in this country of the nature of that represented by rule 216 (a) (1) to (6).

(2) If a party is entitled to the benefit of the second sentence of 35 U.S.C. 104, he must so state and his preliminary statement must include allegations of activity abroad corresponding to those required by rule 216 (a) (1) to (6).

218. Time for filing preliminary statement. The time for filing the preliminary statement is ordinarily specified in the notices of interference mailed to the parties (rule 207). (For extension of the time set see rule 245.)

219. Statements sealed before filing. The statement must be filed in a sealed envelope bearing the name of the party filing it and

the number and title of the interference. The envelope should contain nothing but this statement and if mailed should be enclosed in an outer envelope. The statements may be opened only by an examiner of interferences.

222. Correction of statement on motion. In case of material error arising through inadvertence or mistake, the statement may be corrected on motion (see rule 243), upon a satisfactory showing that the correction is essential to the ends of justice. The motion to correct the statement must be made, if possible, before the taking of any testimony, and as soon as practicable after the discovery of the error.

223. Effect of statement. (a) The preliminary statement should be carefully prepared, as a party will not be allowed to amend his statement in any way except by motion under rule 222, and any doubts as to definiteness or sufficiency of any allegation or compliance with formal equirements will be resolved against the party concerned by restriction to his record date or to the latest date of a period alleged as may be appropriate. Prior to final hearing a party will not be notified of any defect in his statement except that whenever a resulting restriction provides basis for an order to show cause (rule 225) such order will be entered including notice of the defect. Each of the parties by whom or on whose behalf a preliminary statement is made will be strictly held in his proofs to the dates set forth therein. This includes joint applicants or patentees; a new preliminary statement will not be received in the event the application is amended or the patent is corrected to remove the names of those not inventors, nor will a preliminary statement alleging different dates be received if an application is amended or a patent is corrected to include a joint inventor, except by motion under rule 222.

(b) If a party proves any date earlier than alleged in his preliminary statement, such proof will be held to establish the date so alleged and none earlier.

(c) If a party to an interference fails to file a statement, testimony will not be received subsequently from him to prove that he made the invention at a date prior to his effective filing date. If a party alleges in his statement a date of first drawing or first written description but does not attach a copy of such drawing or written description as required by rule 216(b), he will be restricted to his effective filing date as to that allegation.

(d) The preliminary statement can in no case be used as evidence in behalf of the party making it.

224. Reliance on prior application. A party will not be permitted to rely on any prior application to obtain the benefit of its filing

date unless the prior application is specified in the notice of interference (see rule 226) or its benefit is sought by a motion filed in accordance with rule 231. In the latter case, complete copies of the contents of the application file the benefit of which is sought, except affidavits under rules 131, 202, and 204, must be served on all opposing parties with the motion, and in the case of a foreign application the necessary papers to prove a date of priority under 35 U.S.C. 119 including a translation where required (rule 55), must be filed (if they are not already of record) and copies served on all opposing parties with the motion. In either case the proof of service required by rule 247 must include the prior application as well as the motion.

225. Failure of junior party to file statements or to overcome filing date of senior party. If a junior party to an interference fails to file a preliminary statement, or if his statement fails to overcome the prima facie case made by the filing date of the application of another party, judgment on the record will be entered against such junior party unless he has filed a motion under rule 231, within the time set for such motions, for some action in the interference. If such a motion has been timely filed but does not result in action in the interference which will remove the basis for a judgment on the record, such judgment on the record will be entered unless the motion related to matters which may be reviewed at final hearing under rule 258, and within 20 days of the decision disposing of the motion the junior party concerned requests that final hearing be set to review such matters.

226. Access to applications. After the mailing of the notices of interference each party will be permitted to see or obtain copies of each other's applications which are set out in the notices except for copies of affidavits filed under rules 131, 202, and 204 which shall be and remain sealed until preliminary statements are opened under rule 227, except as provided in rule 228 regarding affidavits under rule 204(c).

227. Access to preliminary statements. (a) The preliminary statements shall be open to the inspection of the senior party, and of any junior party who himself filed a statement, after the date set for the serving of preliminary statements (rule 207(b)(2)), but shall not be open to inspection prior to that time.

(b) A junior party who fails to file a preliminary statement shall not have access to the preliminary statement of any other party.

(c) If the interference be terminated before the preliminary statements have been opened to the inspection of the parties, the preliminary statements will remain sealed.

(d) After termination of an interference any unopened statements will be removed from the interference file and preserved by the Office,

and in no case will such statements be open to the inspection of anyone (including opposing parties) without authority from the Commissioner.

228. Summary judgment. When an interference is declared on the basis of a showing under rule 204(c), such showing will be examined by a Board of Patent Interferences. If the Board considers that the facts set out in the showing provide sufficient basis for overcoming the effective filing date of the patentee, the interference will proceed in the normal manner as provided by the rules in this part; otherwise an order shall be entered concurrently with the notice of interference pointing out wherein the showing is insufficient and notifying the applicant making such showing that summary judgment will be rendered against him because of such insufficiency at the expiration of a period specified in the notice, not less than thirty days, unless cause be shown why such action should not be taken. Any response made during the specified period will be considered by the Board without an oral hearing unless such hearing is requested by the applicant, but additional affidavits or exhibits will not be considered unless accompanied by a showing justifying their omission from the original showing. If the applicant files a response to the order to show cause, the patentee will be furnished with one of the copies of the showing under rule 204(c) and will be allowed 30 days from its mailing date within which to present his views with respect thereto. He shall also be entitled to be represented at any oral hearing on the matter.

INTERFERENCES: MOTION PERIOD, DISSOLUTION, REFORMATION

231. Motions before the primary examiner. (a) Within the period set in the notice of interference for filing motions any party to an interference may file a motion seeking:

(1) To dissolve as to one or more counts, except that such motion based on facts sought to be established by affidavits or evidence outside of official records and printed publications will not normally be considered, and when one of the parties to the interference is a patentee, no motion to dissolve on the ground that the subject matter of the count is unpatentable to all parties or is unpatentable to the patentee will be considered, except that a motion to dissolve as to the patentee may be brought which is limited to such matters as may be considered at final hearing (rule 258). Where a motion to dissolve is based on prior art, service on opposing parties must include copies of such prior art.

(2) To amend the issue by addition or substitution of new counts.

(3) To substitute any other application owned by him as to the existing issue, or to include any other application or patent owned by

him as to any subject matter other than the existing issue but disclosed in his application or patent involved in the interference and in an opposing party's application or patent in the interference which should be made the basis of interference between himself and such other party. Copies of such other application must be served on all other parties and the motion must be accompanied by proof of such service.

(4) To shift the burden of proof, or to be accorded the benefit of an earlier application which would not change the order of the parties.

(5) To amend an involved application by adding or removing the names of one or more inventors as provided in rule 45.

(b) Each motion must contain a full statement of the grounds therefor and reasoning in support thereof. Any opposition to a motion must be filed within 20 days of the expiration of the time set for filing motions and the moving party may, if he desires, file a reply to such opposition within 15 days of the date the opposition was filed. If a party files a timely motion to dissolve, any other party may file a motion to amend within 20 days of the expiration of the time set for filing motions. Service on opposing parties of an opposition to a motion to amend which is based on prior art must include copies of such prior art. In the case of action by the primary examiner under rule 237, such motions may be made within 20 days from the date of the primary examiner's decision on motion wherein such action was incorporated or the date of the communication giving notice to the parties of the proposed dissolution of the interference.

(c) A motion to amend or to substitute another application must be accompanied by an amendment adding the claims in question to the application concerned if such claims are not already in that application.

(d) All proper motions will be transmitted to and considered by the primary examiner without oral argument. Requests for reconsideration will not be entertained.

(e) In the determination of a motion to dissolve an interference between an application and a patent, the prior art of record in the patent file may be referred to for the purpose of construing the issue.

(f) Upon the granting of a motion to amend and the adoption of the claims by the other parties within a time specified, or upon the granting of a motion to substitute another application, and after the expiration of the time for filing any new preliminary statements, a patent interference examiner shall redeclare the interference or shall declare such other interferences as may be necessary to include said claims. A preliminary statement as to the added claims need not be filed if a party states that he intends to rely on the original statement and such a declaration as to added claims need not be signed or sworn to by the inventor in person. A second time for filing motions will not be set and subsequent motions with respect to matters which have been once considered by the primary examiner will not be considered.

237. Dissolution at the request of examiner. If, during the pendency of an interference, a reference or other reason be found which, in the opinion of the primary examiner, renders all or part of the counts unpatentable, the attention of the Board of Patent Interferences shall be called thereto. The interference may be suspended and referred to the primary examiner for consideration of the matter, in which case the parties will be notified of the reason to be considered. Arguments of the parties regarding the matter will be considered if filed within 20 days of the notification. The interference will be continued or dissolved in accordance with the determination by the primary examiner. If such reference or reason be found while the interference is before the primary examiner for determination of a motion, decision thereon may be incorporated in the decision on the motion, but the parties shall be entitled to reconsideration if they have not submitted arguments on the matter.

(b) Prior to the approval of the preliminary statements and notification of the parties thereof (rule 226), an interference may be withdrawn at the request of the primary examiner, in which event the interference shall be considered as not having been declared.

238. Addition of new party by examiner. If during the pendency of an interference, another case appears, claiming substantially the subject matter in issue, the primary examiner may request the suspension of the interference for the purpose of adding said case. Such suspension will be granted as a matter of course by an examiner of interferences if no testimony has been taken. If, however, any testimony may have been taken, a notice for the proposed new party, disclosing the issue in interference and the names and addresses of the interferants and of their attorneys or agents, and notices for the interferants disclosing the name and address of the said party and his attorney or agent shall be prepared by the primary examiner and forwarded to the examiner of interferences, who shall mail said notices and set a time for stating any objections and at his discretion a time of hearing on the question of the admission of the new party. If an examiner of interferences be of the opinion that the interference should be suspended and the new party added, he shall prescribe the terms for such suspension.

INTERFERENCES: MISCELLANEOUS PROVISIONS

242. Prosecution by assignee. When on motion duly made and upon satisfactory proof, it shall be shown that, by reason of the inability or refusal of the inventor to take suitable action in an interference, or from other cause, the ends of justice require that an assignee of an undivided interest in the invention be permitted to prosecute the same, it may be so ordered.

243. Motions before the Board of Patent Interferences. Motions relating to matters other than those specified in rule 231 will be determined by a patent interference examiner or the Board of Patent Interferences, as may be deemed appropriate. Such motions shall be made in writing and shall contain a full statement of the action sought and the grounds therefor, and satisfactory proof of any facts required must accompany the motion. Oral hearings will not be held except on order of a patent interference examiner or Board of Patent Interferences. Briefs or memoranda in support of such motions shall accompany the motion. Any reply to the motion, together with any brief or memorandum in support thereof, shall be filed within ten days unless some other date is set by the patent interference examiner.

244. Motions; miscellaneous provisions. (a) Typewritten briefs may be used in connection with all motions. By stipulation of the parties subject to approval or by order of the tribunal before whom the motion is pending, briefs may be received if filed otherwise than as prescribed.

(b) In oral hearings on motions, the moving parties shall have the right to make the opening and closing arguments. Unless otherwise ordered before the hearing begins, oral arguments will be limited to one-half hour for each party.

(c) Petitions for reconsideration or modification of the decision must be filed within twenty days after the date of the decision and any reply thereto must be filed within ten days from the filing of the petition.

(d) There is no appeal from decisions rendered on motions, but the Commissioner may consider on petition any matter involving abuse of discretion or the exercise of his supervisory authority, or such other matters as he may deem proper to consider. Any such petition must comply with rule 181 and, if not filed within twenty days from the decision complained of, may be dismissed as untimely. Any reply thereto must be filed within ten days from the filing of the petition.

245. Extensions of time. Extensions of time in any case not otherwise provided for may be had by stipulation of the parties, subject to approval, or on motion duly brought, sufficient cause being shown for such extension.

247. Service of papers. Every paper filed in the Patent Office in interference proceedings must be served upon the other parties in the manner provided in rule 248, except the following:

(a) Preliminary statements at the time of filing but see rule 215 (b) and (c),

(b) Documentary exhibits introduced at the taking of a deposition,

(c) Certified transcripts of testimony under rule 276 (but copies of the record must be served (rule 253)),

(d) Statutory disclaimers under 35 U.S.C. 253. The specification in certain sections that a designated paper must be served does not imply that other papers, not excepted above need not be served. However, the requirement for service of designated papers may be waived under particular circumstances and service may be required of other designated papers which need not ordinarily be served. Proof of such service must be made before the paper will be considered in the interference by the Office. A statement of the attorney, attached to or appearing in the original paper when filed, clearly stating the time and manner in which service was made will be accepted as prima facie proof of service.

248. Service of papers; manner of service. Service of papers must be on the attorney or agent of the party if there be such or on the party if there is no attorney or agent, and may be made in either of the following ways: (a) By delivering a copy of the paper to the person served; (b) by leaving a copy at the usual place of business of the person served with someone in his employment; (c) when the person served has no usual place of business, by leaving a copy at his residence, with a member of his family over 14 years of age and of discretion; (d) transmission by first class mail which may also be certified or registered. When service is by mail the date of mailing will be regarded as the date of service. Whenever it shall be satisfactorily shown to the Commissioner that none of the above modes of obtaining or serving the paper is practicable, service may be by notice published in the Official Gazette.

INTERFERENCES: TRIAL

251. Assignment of times for taking testimony. (a) Times will be assigned in which the junior party shall complete his testimony in chief, and in which the other party shall complete the testimony on his side, and a further time in which the junior party may take rebutting testimony, but he shall take no other testimony. If there be more than two parties to the interference, the times for taking testimony will be so arranged that each shall have an opportunity to prove his case against prior parties and to rebut their evidence, and also to meet the evidence of junior parties.

(b) The time for taking testimony will ordinarly be assigned in notices sent to the parties after motions under rule 231 have been disposed of or, if no such motions have been filed, after the close of the motion period (rule 231).

(c) Testimony shall be taken during the times assigned in accordance with rules 271 to 286.

(d) The date for final hearing will ordinarily be set in separate notices.

252. Failure of junior party to take testimony. Upon the filing of a motion for judgment by any senior party to an interference stating that the time for taking testimony on behalf of any junior party has expired and that no testimony has been taken and no other evidence offered by said junior party, an order shall be entered that the junior party show cause within a time set therein, not less than ten days, why judgment should not be rendered against him, and in the absence of a showing of good and sufficient cause, judgment shall be so rendered.

253. Copies of the testimony. (a) In addition to the certified transcript of the testimony (rules 275 to 278), three true copies of the record of each party must be filed, for the use of the Patent Office (a total of four copies), and one true copy of the record must be served upon each of the opposing parties.

(b) These copies of the record may be submitted either in printed or in typewritten form.

(c) These records, whether printed or typewritten, must include the testimony presented by the party filing the same. A copy of the counts of the interference and the preliminary statement required by rules 215 to 227 must be included. Each record must contain an index of the names of the witnesses, giving the pages where their examination and cross-examination begin, and an index of the exhibits, briefly describing their nature and giving the pages at which they are introduced and offered in evidence, and also the pages where copies of exhibits are shown when such exhibits are copied in the record. The names of the witnesses must appear at the top of the pages over their testimony, and the pages must be consecutively numbered.

(d) The copies of the record for all parties must be filed and served on the opposing parties by the date specified in the order setting times for taking testimony or such extensions as may be granted.

(e) When the copies of the record are submitted in printed form, they shall be printed in 11-point type and adequately leaded; the paper must be opaque and unglazed; the size of the page shall be 7⅝ by 10¼ inches; the size of the printed matter shall be 4⅛ by 7⅛ inches; and they shall be bound to lie flat when opened. Twenty-five additional copies for the United States Court of Customs and Patent Appeals, should appeal be taken, may also be filed; if no such appeal be taken, the twenty-five copies will be returned to the party filing them.

(f) When the copies of the record are submitted in typewritten form, they must be clearly legible on opaque, unglazed, durable paper approximately 8½ by 11 inches in size (letter-size) and one of the three copies must be a ribbon copy, but need not be executed by the certifying officer. (The certified transcript may be a properly executed carbon copy. See rule 277.) The typing shall be on one side

of the paper, in not smaller than pica type; and double-spaced with a margin of 1½ inches on the left-hand side of the page. The sheets shall be bound at their left edges, in such manner to lie flat when opened, in a volume or volumes of convenient size (approximately 100 pages per volume is suggested) provided with covers. Multigraphed or otherwise reproduced copies conforming to the standards specified will be accepted.

(g) The testimony of any party failing to supply copies of his record as specified may be refused consideration.

254. Briefs at final hearing. Briefs at final hearing before the Board of Patent Interferences shall be submitted in printed form, except that when not in excess of fifty legal-size double-spaced typewritten pages, or the equivalent thereof, and in any other case where satisfactory reason therefor is shown, they may be submitted in typewritten form. If submitted in printed form, they shall be the same in size and the same as to page and print as is specified for printed copies of testimony. Typewritten briefs shall conform to the requirements for typewritten copies of testimony, except that legal-size paper may be used and the binding and covers specified are not required. Three copies of each brief must be filed. The times for filing briefs will ordinarily be set in the order setting times for taking testimony.

255. Request for findings of fact and conclusions of law. Either party may, in his brief, submit concise proposed findings of fact, supported by specific references to and analysis of the record, and conclusions of law, supported by citation of authorities. The opposing party may, in his brief in reply thereto, accept any such proposed findings, or reject any proposed findings giving the reasons therefor, and may likewise submit proposed findings. The Board of Patent Interferences may, in its discretion, adopt the proposed findings in whole or in part.

256. Final hearing. (a) Final hearings will be held by the Board of Patent Interferences on the day appointed at the designated time. If either party appear at the proper time, he will be heard. After the day of hearing, the case will not be taken up for oral argument except by consent of all parties. If the Board of Patent Interferences be prevented from hearing the case at the time specified, a new assignment will be made, or the case will be continued from day to day until heard. Unless it shall be otherwise ordered before the hearing begins, oral arguments will be limited to not more than one hour for each party. After a contested case has been argued, nothing further relating thereto will be heard unless upon request of the Board of Patent Interferences.

(b) Any request or petition for rehearing or reconsideration, or modification of the decision, must be filed within thirty days from the date of the original decision, unless that decision is so modified as to become, in effect, a new decision, and the Board of Patent Interferences so states. Any reply thereto must be filed within fifteen days from the filing of the petition. (See rule 304.)

257. Burden of proof. (a) The parties to an interference will be presumed to have made their inventions in the chronological order of the filing dates of their applications for patents involved in the interference or the effective filing dates which such applications have been accorded; and the burden of proof will rest upon the party who shall seek to establish a different state of facts.

(b) The termination of the interference by dissolution under rules 232 or 237, without an award of priority, or by an award of priority based solely upon ancillary matters, shall not disturb this presumption, and a party under these circumstances enjoying the status of a senior party with respect to any subject matter of his application shall not be deprived of any claim to such subject matter solely on the ground that such claim was not added to the interference by amendment under rule 233.

258. Matters considered in determining priority. (a) In determining priority of invention, the Board of Patent Interferences will consider only priority of invention on the evidence submitted. Questions of patentability of a claim generally will not be considered in the decision on priority; and neither will the patentability of a claim to an opponent be considered, unless the nonpatentability of the claim to the opponent will necessarily result in the conclusion that the party raising the question is in fact the prior inventor on the evidence before the Office, or relates to matters which have been determined to be ancillary to priority and must be considered, but a party shall not be entitled to raise such nonpatentability unless he has duly presented a motion for dissolution under rule 231 upon such ground or shows good reason why such a motion was not presented.

(b) The matters raised on a motion relating to the burden of proof (rule 231) may be reviewed at final hearing.

(c) At final hearing between an application and a patent the prior art of record in the patent file may be referred to for the purpose of construing the issue.

259. Recommendation by Board of Patent Interferences. The Board of Patent Interferences may, either before or concurrently with their decision on the question of priority, but independently of such decision, direct the attention of the Commissioner to any matter not relating to priority which may have come to their notice, and

which in their opinion establishes the fact that no interference exists, or that there has been irregularity in declaring the same, or which amounts to a bar to the grant of a patent to either of the parties for the claim or claims in interference. The Commissioner may suspend the interference and remand the case to the primary examiner for his consideration of the matters to which attention has been directed if such matters have not been considered before by the examiner, or take other appropriate action. If the case is not so remanded, the primary examiner will, after judgment on priority, consider such matters, unless the same shall have been previously disposed of by the Commissioner.

INTERFERENCES: TERMINATION

261. Termination of interference. An interference will be terminated by judgment after final hearing (rules 251 to 259), or by judgment on the record as provided by rules 225 or 252, or by summary judgment because of an insufficient showing under rule 204(c) as provided by rule 228, or by dissolution as provided by rule 231 or rule 237, or as otherwise provided.

262. Disclaimer, concession, abandonment. (a) An applicant or a patentee involved in an interference may, at any time, file a written disclaimer or concession of priority, or abandonment of the invention, signed by the inventor in person with the written consent of the assignee when there has been an assignment. Upon the filing of such an instrument by any party, judgment shall be rendered against him.

(b) An applicant, except an applicant for reissue having a claim or claims from his patent in the interference, may at any time prior to the taking of testimony, and at any time thereafter with the consent of all of the other parties involved, avoid the continuance of the interference as to all counts by filing a written abandonment of the contest or of the application, signed by the inventor in person with the written consent of the assignee when there has been an assignment. Upon the filing of such abandonment of the contest or of the application, the interference shall be dissolved as to that party, but such dissolution shall in subsequent proceedings have the same effect with respect to the party filing the same as an adverse award of priority.

(c) Upon a showing of sufficient cause, the disclaimer, or abandonment of the invention, or abandonment of the contest or of the application, above referred to, may be executed and filed by the assignee of the entire interest. A concession of priority may not be made by an assignee.

(d) Such disclaimer, concession of priority, abandonment of the invention, or abandonment of the contest shall operate without fur-

ther action as a direction to cancel the claims involved from the application of the party making the same on termination of the interference on the basis thereof.

263. Statutory disclaimer by patentee. The disclaimer referred to in rule 262, when made by a patentee in interference is not a disclaimer under 35 U.S.C. 253. If a disclaimer under the statute (see rule 321) canceling claims involved in the interference from the patent, is made by the patentee, including all assignees as shown by the records of the Patent Office, the interference will be dissolved pro forma as to such claims.

264. Reissue filed by patentee. If a patentee in interference files an application for reissue during the interference, omitting the claims involved (for the purpose of avoiding the interference), the application will be examined and such examination will include the question of patentability over the issue of the interference and over the application of the other party. The interference will not be terminated unless a reissue is granted excluding claims to the conflicting subject matter, whereupon the interference will be dissolved. If a reissue application is filed for other purposes, it may be held subject to the outcome of the interference. An application for reissue will not be included in the interference on the basis of new claims presented by the reissue unless a motion to that effect is brought during the motion period or any delay adequately explained.

265. Status of claims of defeated applicant after interference. Whenever an award of priority has been rendered in an interference proceeding and the limit of appeal from such decision has expired, the claim or claims constituting the issue of the interference in the application of the defeated or unsuccessful applicant or applicants stand finally disposed of without further action by the examiner and are not open to further ex parte prosecution.

266. Action after interference. (a) After the termination of the interference, the primary examiner will promptly take such action in each of the applications involved as may be necessary. Amendments presented during the interference shall not be entered except as otherwise provided; amendments required to accompany motions to amend shall be entered only to the extent the motion was granted (matter not entered may be subsequently presented by the applicant, subject to the rules relating to amendments, provided the prosecution of the application is not otherwise closed). The examiner will act on any matter requiring action and call for response to any examiner's action unresponded to.

(b) After judgment of priority, the application of any party may be held subject to further examination, including interference with other applications.

267. Second interference. A second interference between the same parties will not be declared upon another application for patent for the same invention filed by either party.

TESTIMONY IN INTERFERENCES AND OTHER CONTESTED CASES

271. Evidence must comply with rules. Evidence touching the matter at issue which shall not have been taken and filed in compliance with these rules will not be considered in determining the interference or other proceeding.

35 U.S.C. 23. Testimony in Patent Office cases. The Commissioner may establish rules for taking affidavits and depositions required in cases in the Patent Office. Any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where he resides, may take such affidavits and depositions.

35 U.S.C. 24. Subpoenas, witnesses. The clerk of any United States court for the district wherein testimony is to be taken for use in any contested case in the Patent Office, shall, upon the application of any party thereto, issue a subpoena for any witness residing or being within such district, commanding him to appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpoena. The provisions of the Federal Rules of Civil Procedure relating to the attendance of witnesses and to the production of documents and things shall apply to contested cases in the Patent Office.

Every witness subpoenaed and in attendance shall be allowed the fees and traveling expenses allowed to witnesses attending the United States district courts.

A judge of a court whose clerk issued a subpoena may enforce obedience to the process or punish disobedience as in other like cases, on proof that a witness, served with such subpoena, neglected or refused to appear or to testify. No witness shall be deemed guilty of contempt for disobeying such subpoena unless his fees and traveling expenses in going to, and returning from, and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpoena; nor for refusing to disclose any secret matter except upon appropriate order of the court which issued the subpoena.

272. Manner of taking testimony of witnesses. (a) The testimony of witnesses shall be taken by depositions on oral examination in accordance with these rules.

(b) If the parties so stipulate in writing, deposition may be taken before any person authorized to administer oaths, at any place, upon any notice, and in any manner, and when so taken may be used like other depositions. By agreement of the parties, provided the Commissioner consents, testimony may be taken before an officer or officers

of the Patent Office under such terms and conditions as the Commissioner may prescribe.

(c) By agreement of the parties, the testimony of any witness or witnesses of any party, may be submitted in the form of an affidavit by such witness or witnesses. The parties may stipulate what a particular witness would testify to if called, or the facts in the case of any party may be stipulated. When evidence is submitted in one of these forms, four copies of such affidavit or stipulated testimony (rule 253(a)(f)) are required.

273. Notice of examination of witnesses. (a) Before the depositions of witnesses shall be taken by a party, due notice in writing shall be given to the opposing party or parties, as provided in rule 248, of the time when and place where the depositions will be taken, of the cause or matter in which they are to be used, and the name and address of each witness to be examined; if the name of a witness is not known a general description sufficient to identify him or the particular class or group to which he belongs, together with a satisfactory explanation, may be given instead. The opposing party shall have full opportunity, either in person or by attorney, to cross-examine the witnesses. If the opposing party shall attend the examination of witnesses not named in the notice, and shall either cross-examine such witnesses or fail to object to their examination, he shall be deemed to have waived his right to object to such examination for want of notice. Neither party shall take testimony in more than one place at the same time, nor so nearly at the same time that reasonable opportunity for travel from one place of examination to the other cannot be had.

(b) The notice for taking testimony must be served (unless otherwise stipulated in an instrument in writing filed in the case) upon the attorney of record, if there be one, or, if there be no attorney of record, upon the adverse party. Reasonable time must be given therein for such adverse party to reach the place of examination. Such notice shall, with a statement signed by the attorney as to the fact, time, and mode of service thereof, be attached to the deposition or depositions, whether the opposing party shall have cross-examined or not.

274. Persons before whom depositions may be taken. (a) Within the United States, or within a territory or insular possession of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held.

(b) No such officer who is a relative or employee of either of the parties, or of their attorneys or agents, or interested, directly or indirectly, in the matter in controversy, either as counsel, attorney,

agent or otherwise, shall be competent to take depositions, unless with written consent of all the parties.

275. Examination of witnesses. (a) Each witness before testifying shall be duly sworn according to law by the officer before whom his deposition is to be taken.

(b) The testimony shall be taken in answer to interrogatories, with the questions and answers recorded in their regular order by the officer, or by some other person (who shall be subject to the provisions of rule 274(b)) in the presence of the officer except when his presence is waived on the record by agreement of the parties. The testimony shall be taken stenographically and transcribed, unless the parties present agree otherwise.

(c) In the absence of all opposing parties and their attorneys or agents, testimony may be taken in longhand, typewriting, or stenographically.

(d) All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections.

(e) When the testimony has been transcribed, the deposition shall be carefully read over by the witness, or by the officer to him, and shall then be signed by the witness in the presence of the officer unless the reading and the signature be waived on the record by agreement of all parties.

276. Certification and filing by officer. The officer shall annex to the deposition his certificate showing: (a) Due administration of the oath by the officer to the witness before the commencement of his testimony; (b) the name of the person by whom the testimony was taken down, and whether, if not taken down by the officer, it was taken down in his presence; (c) the presence or absence of the adverse party; (d) the place, day, and hour of commencing and taking the deposition; (e) that the deposition was read by or to the witness before he signed the same, and that he signed the same in the presence of the officer; and (f) the fact that the officer was not disqualified as specified in rule 274. If any of the foregoing requirements are waived, the certificate shall so state. The officer shall sign the certificate and affix thereto his seal of office, if he have such seal. Unless waived on the record by agreement, he shall then, without delay, securely seal in an envelope all the evidence, notices, and paper exhibits, inscribe upon the envelope a certificate giving the number and title of the case, the name of each witness, and the date of sealing, address the package, and forward the same to the Commissioner of Patents. If the weight or

bulk of an exhibit shall exclude it from the envelope, it shall, unless waived on the record by agreement of all parties, be authenticated by the officer and transmitted in a separate package, marked and addressed as provided in this rule.

277. Form of deposition. (a) The pages of each deposition must be numbered consecutively, and the name of the witness plainly and conspicuously written at the top of each page. The testimony may be written on legal-size or letter-size paper, with a wide margin on the left-hand side of the page, and with the writing on one side only of the sheet. The questions propounded to each witness must be consecutively numbered and each question must be followed by its answer.

(b) In order to have a ribbon copy of the record available as required by rule 253 (f), a carbon copy of the deposition may be executed by the witnesses and the officer and filed as required by rule 276.

(c) Exhibits must be numbered or lettered consecutively and each must be marked with the number and title of the case and the name of the party offering the exhibit. Entry and consideration may be refused to improperly marked exhibits.

278. Depositions must be filed. All depositions which are taken must be duly filed in the Patent Office. On refusal to file, the Office at its discretion will not further hear or consider the contestant with whom the refusal lies; and the Office may, at its discretion, receive and consider a copy of the withheld deposition, attested by such evidence as is procurable.

279. Inspection of testimony. After testimony is filed in the Office, it may be inspected by any party to the case, but it cannot be withdrawn for the purpose of printing. It may be printed by someone specially designated by the Office for that purpose, under proper restrictions.

281. Additional time for taking testimony. If either party shall be unable to procure the testimony of a witness or witnesses within the time limited and said time has expired or is about to expire, and desires additional time for such purpose, he must file a motion, accompanied by a statement under oath setting forth specifically the cause of such inability, the name or names of the witness or witnesses, the facts expected to be proved by such witness or witnesses, the steps which have been taken to procure such testimony, and the dates on which efforts have been made to procure it. (See rule 245 for extensions of time.)

282. Official records and printed publications. (a) Official records and any special matter contained in a printed publication, if competent evidence and pertinent to the issue, may be introduced in

evidence by filing in the Patent Office a notice to that effect, before the closing of the time for taking the testimony of the party (before the time for taking the testimony in chief if such matters are not in rebuttal), specifying the record or the printed publication, the page or pages thereof to be used, indicating generally its relevancy, and accompanied by the record or authenticated copy, or the printed publication or a copy. The notice and copies of the record or publication must be served on each of the other parties.

(b) In the case of prior applications, the filing date of which is claimed, compliance with the requirements of rules 224 and 231 is sufficient notice under this rule.

283. Testimony taken in another interference or action. Upon motion duly made and granted, testimony taken in another interference proceeding, or testimony taken in a suit between the same parties or those in interest, may be used in an interference proceeding, so far as relevant and material, subject, however, to the right of any contesting party to recall or demand the recall of witnesses whose testimony has been taken, and to take other testimony in rebuttal of the testimony.

284. Testimony taken in foreign countries. Upon motion duly made and granted, testimony may be taken in foreign countries, upon complying with the following requirements:

(a) The motion must designate a place for the examination of the witnesses at which an officer duly qualified to take testimony under the laws of the United States in a foreign country shall reside, and it must be accompanied by a statement under oath that the motion is made in good faith, and not for the purposes of delay or of vexing or harassing any party to the case; it must also set forth the names of the witnesses, the particular facts to which it is expected each will testify, and the grounds on which is based the belief that each will so testify.

(b) It must appear that the testimony desired is material and competent, and that it can not be taken in this country at all, or can not be taken here without hardship and injury to the moving party greatly exceeding that to which the opposite party will be exposed by the taking of such testimony abroad.

(c) Upon the granting of such motion, a time will be set within which the moving party shall file in duplicate the interrogatories to be propounded to each witness, and serve a copy of the same upon each adverse party, who may, within a designated time, file, in duplicate, cross-interrogatories. Objections to any of the interrogatories or cross-interrogatories may be filed at any time before the depositions are taken, and such objections will be considered and determined upon the hearing of the case.

(d) As soon as the interrogatories and cross-interrogatories are decided to be in proper form, the Commissioner will cause them to be forwarded to the proper officer, with the request that, upon payment of, or satisfactory security for, his official fees, he notify the witnesses named to appear before him within a designated time and make answer thereto under oath; and that he reduce their answers to writing, and transmit the same, under his official seal and signature, to the Commissioner of Patents with the certificate prescribed in rule 276.

(e) By stipulation of the parties the requirements of paragraph (c) of this rule as to written interrogatories and cross-interrogatories may be dispensed with, and the testimony may be taken before the proper officer upon oral interrogatories by the parties, their attorneys or their agents.

(f) Unless false swearing in the giving of such testimony before the officer taking it shall be punishable as perjury under the laws of the foreign state in which it shall be taken, it will not stand on the same footing in the Patent Office as testimony duly taken in the United States; but its weight in each case will be determined by the tribunal having jurisdiction of such case.

285. Effect of errors and irregularities in depositions. Notice will not be taken of merely formal or technical objections which shall not appear to have wrought a substantial injury to the party raising them; and in case of such injury it must be made to appear that, as soon as the party became aware of the ground of objection, he gave notice thereof.

(a) *As to notice.* All errors and irregularities in the notice for taking a deposition are waived unless objection is promptly made and served in writing upon the party giving the notice.

(b) *As to disqualification of officer.* Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(c) *As to taking of deposition.* (1) Objections to the competency of a witness or to the competency, relevancy, or materially of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(2) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(d) *As to completion and return of deposition.* Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

286. Objections to admissibility. Subject to the provisions of rule 285, objection may be made to receiving in evidence any deposition or part thereof, or any other evidence, for any reason which would require the exclusion of the evidence according to the established rules of evidence, which will be applied strictly by the Office.

PROTEST AND PUBLIC USE PROCEEDINGS

291. Protests to the grant of a patent. The patent statutes do not provide for opposition to the grant of a patent on the part of the public. Protests to the grant of a patent are ordinarily merely acknowledged, and filed after being referred to the examiner having charge of the subject matter involved for his information.

292. Public use proceedings. (a) When a petition for the institution of public use proceedings, supported by affidavits, is filed by one having information of the pendency of an application and is found, on reference to the primary examiner, to make a prima facie showing that the invention involved in an interference or claimed in an application believed to be on file had been in public use or on sale one year before the filing of the application, or before the date alleged by an interfering party in his preliminary statement or the date of invention established by such party, a hearing may be had before the Commissioner to determine whether a public use proceeding should be instituted. If instituted, times may be set for taking testimony, which shall be taken as provided by rules 271 to 286. The petitioner will be heard in the proceedings but after decision therein will not be heard further in the prosecution of the application for patent.

(b) The petition and accompanying papers should be filed in duplicate, or served upon the applicant, his attorney or agent of record, and petitioner should offer to bear any expense to which the Office may be put in connection with the proceeding.

REVIEW OF PATENT OFFICE DECISIONS BY COURT

301. Appeal to U.S. Court of Customs and Patent Appeals. Any applicant dissatisfied with the decision of the Board of Appeals, and any party to an interference dissatisfied with the decision of the Board of Patent Interferences, may appeal to the U.S. Court of Customs and Patent Appeals. The appellant must take the following steps

in such an appeal: (a) In the Patent Office give notice to the Commissioner and file the reasons of appeal (see rules 302 and 304); (b) in the court, file a petition of appeal and a certified transcript of the record within a specified time after filing the reasons of appeal, and pay the fee for appeal, as provided by the rules of the court. The transcript will be transmitted to the Court by the Patent Office on order of and at the expense of the appellant.

35 U.S.C. 141. Appeal to Court of Customs and Patent Appeals. An applicant dissatisfied with the decision of the Board of Appeals may appeal to the United States Court of Customs and Patent Appeals, thereby waiving his right to proceed under section 145 of this title. A party to an interference dissatisfied with the decision of the board of patent interferences on the question of priority may appeal to the United States Court of Customs and Patent Appeals, but such appeal shall be dismissed if any adverse party to such interference, within twenty days after the appellant has filed notice of appeal according to section 142 of this title, files notice with the Commissioner that he elects to have all further proceedings conducted as provided in section 146 of this title. Thereupon the appellant shall have thirty days thereafter within which to file a civil action under section 146, in default of which the decision appealed from shall govern the further proceedings in the case.

35 U.S.C. 142. Notice of appeal. When an appeal is taken to the United States Court of Customs and Patents Appeals, the appellant shall give notice thereof to the Commissioner, and shall file in the Patent Office his reasons of appeal, specifically set forth in writing within such time after the date of the decision appealed from, not less than sixty days, as the Comissioner appoints.

35 U.S.C. 143. Proceedings on appeal. The United States Court of Customs and Patent Appeals shall, before hearing such appeal, give notice of the time and place of the hearing to the Commissioner and the parties thereto. The Commissioner shall transmit to the court certified copies of all the necessary original papers and evidence in the case specified by the appellant and any additional papers and evidence specified by the appellee and in an ex parte case the Commissioner shall furnish the court with the grounds of the decision of the Patent Office, in writing, touching all the points involved by the reasons of appeal.

35 U.S.C. 144. Decision on appeal. The United States Court of Customs and Patent Appeals, on petition, shall hear and determine such appeal on the evidence produced before the Patent Office, and the decision shall be confined to the points set forth in the reasons of appeal. Upon its determination the court shall return to the Commissioner a certificate of its proceedings and decision, which shall be entered of record in the Patent Office and govern the further proceedings in the case.

302. Notice and reasons of appeal. (a) When an appeal is taken to the U.S. Court of Customs and Patent Appeals, the appellant shall give notice thereof to the Commissioner, and file in the Patent Office, within the time specified in rule 304, his reasons of appeal specifically set forth in writing.

(b) In interferences and other contested cases, the notice and reasons must be served as provided in rule 248.

303. Civil action under 35 U.S.C. 145, 146. (a) Any applicant dissatisfied with the decision of the Board of Appeals, and any party

dissatisfied with the decision of the Board of Patent Interferences, may, instead of appealing to the U.S. Court of Customs and Patent Appeals (rule 301), have remedy by civil action under 35 U.S.C. 145 and 146 respectively. Such civil action must be commenced within the time specified in rule 304.

(b) If an applicant in an ex parte case has taken an appeal to the U.S. Court of Customs and Patent Appeals, he thereby waives his right to proceed under 35 U.S.C. 145.

(c) If a defeated party to an interference proceeding has taken an appeal to the U.S. Court of Customs and Patent Appeals, and any adverse party to the interference shall, within twenty days after the appellant shall have filed notice of the appeal to the court (rule 302), file notice with the Commissioner that he elects to have all further proceedings conducted as provided in 35 U.S.C. 146, certified copies of such notices will be transmitted to the U.S. Court of Customs and Patent Appeals for such action as may be necessary. The notice of election must be served as provided in rule 248.

35 U.S.C. 145. Civil action to obtain patent. An applicant dissatisfied with the decision of the Board of Appeals may unless appeal has been taken to the United States Court of Customs and Patent Appeals, have remedy by civil action against the Commissioner in the United States District Court for the District of Columbia if commenced within such time after such decision, not less than sixty days, as the Commissioner appoints. The court may adjudge that such applicant is entitled to receive a patent for his invention, as specified in any of his claims involved in the decision of the Board of Appeals, as the facts in the case may appear and such adjudication shall authorize the Commissioner to issue such patent on compliance with the requirements of law. All the expenses of the proceedings shall be paid by the applicant.

35 U.S.C. 146. Civil action in case of interference. Any party to an interference dissatisfied with the decision of the board of patent interferences on the question of priority, may have remedy by civil action, if commenced within such time after such decision, not less than sixty days, as the Commissioner appoints or as provided in section 141 of this title, unless he has appealed to the United States Court of Customs and Patent Appeals, and such appeal is pending or has been decided. In such suits the record in the Patent Office shall be admitted on motion of either party upon the terms and conditions as to costs, expenses, and the further cross-examination of the witnesses as the court imposes, without prejudice to the right of the parties to take further testimony. The testimony and exhibits of the record in the Patent Office when admitted shall have the same effect as if originally taken and produced in the suit.

Such suit may be instituted against the party in interest as shown by the records of the Patent Office at the time of the decision complained of, but any party in interest may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same state, or an adverse party residing in a foreign country, the United States District Court for the District of Columbia shall have jurisdiction and may issue summons against the adverse parties directed to the marshal of any district in which any adverse party resides. Summons against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs. The Commissioner shall not be a necessary party but he shall be notified of the filing of the

suit by the clerk of the court in which it is filed and shall have the right to intervene. Judgment of the court in favor of the right of an applicant to a patent shall authorize the Commissioner to issue such patent on the filing in the Patent Office of a certified copy of the judgment and on compliance with the requirements of law.

304. Time for appeal or civil action. The time for filing the notice and reasons of appeal to the U.S. Court of Customs and Patent Appeals (rule 302) or for commencing a civil action (rule 303) is sixty days from the date of the decision of the Board of Appeals or the Board of Patent Interferences. If a petition for rehearing or reconsideration is filed within thirty days after the date of the decision of the Board of Appeals or Board of Patent Interferences, the time is extended to thirty days after action on the petition. No petition for rehearing or reconsideration filed outside the time specified herein after such decision, nor any proceedings on such petition shall operate to extend the period of sixty days hereinabove provided. The times specified herein are calendar days. If the last day of the time specified for appeal or commencing a civil action falls on a Saturday, Sunday or legal holiday, the time is extended to the next day which is neither a Saturday, Sunday nor a holiday. If a defeated party to an interference has taken an appeal to the U.S. Court of Customs and Patent Appeals and an adverse party has filed notice under 35 U.S.C. 141 that he elects to have all further proceedings conducted under 35 U.S.C. 146 (rule 303(c)), the time for filing a civil action thereafter is specified in 35 U.S.C. 141.

ALLOWANCE AND ISSUE OF PATENT

311. Notice of allowance. If, on examination, it shall appear that the applicant is entitled to a patent under the law, a notice of allowance will be sent to him, his attorney or his agent, calling for the payment of a specified sum constituting the issue fee or a portion thereof, which shall be paid within three months from the date of the notice of allowance.

312. Amendments after allowance. Amendments after the notice of allowance of an application will not be permitted as a matter of right, but may be made, if the printing of the specification has not begun, on the recommendation of the primary examiner, approved by the Commissioner, without withdrawing the case from issue.

313. Withdrawal from issue. After the notice of allowance of an application is sent, the case will not be withdrawn from issue except by approval of the Commissioner, and if withdrawn for further action on the part of the Office, a new notice of allowance will be sent if the application is again allowed.

When the issue fee or that portion thereof specified in the notice of allowance has been paid, and the patent to be issued has received its date and number, the application will not be withdrawn from issue on account of any mistake or change of purpose of the applicant, his attorney or his agent, nor for the purpose of enabling the inventor to procure a foreign patent, nor for any other reasons except mistake on the part of the Office, or because of fraud or illegality in the application, or for interference. Express abandonment of the application (rule 138) may not be recognized by the Office unless it is actually received by appropriate officials in time to act thereon before the date of issue.

314. Issuance of patent. If payment of the issue fee or that portion thereof specified in the notice of allowance is timely made, the patent will issue in regular course.

315. Delivery of patent. The patent will be delivered or mailed on the day of its date to the attorney or agent of record, if there be one; or if the attorney or agent so request, to the patentee or assignee of an interest therein; or, if there be no attorney or agent, to the patentee or to the assignee of the entire interest, if he so request.

316. Application abandoned for failure to pay issue fee. (a) If the fee specified in the notice of allowance is not paid within three months from the date of the notice the application will be regarded as abandoned. Such an abandoned application will not be considered as pending before the Patent Office.

(b) If the issue fee or portion thereof specified in the notice of allowance is not timely paid but is submitted, with the fee for delayed payment, within three months of its due date with a verified showing of sufficient cause for the late payment, it may be accepted by the Commissioner as though no abandonment had ever occurred.

317. Delayed payment of balance of the issue fee; lapsed patents. Any remaining balance of the issue fee is to be paid within three months from the date of notice thereof and, if not paid, the patent lapses at the termination of the three month period. If this balance is not timely paid but is submitted, with the fee for delayed payment, within three months of its due date with a verified showing of sufficient cause for the late payment, it may be accepted by the Commissioner as though no lapse had ever occurred.

35 U.S.C. 151. Issue of patent. If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.

Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.

Any remaining balance of the issue fee shall be paid within three months from the sending of a notice thereof and, if not paid, the patent shall lapse at the termination of this three-month period. In calculating the amount of a remaining balance, charges for a page or less may be disregarded.

If any payment required by this section is not timely made, but is submitted with the fee for delayed payment within three months after the due date and sufficient cause is shown for the late payment, it may be accepted by the Commissioner as though no abandonment or lapse had ever occurred.

35 U.S.C. 152. Issue of patent to assignee. Patents may be granted to the assignee of the inventor of record in the Patent Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided in this title.

35 U.S.C. 153. How issued. Patents shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall be signed by the Commissioner or have his signature placed thereon and attested by an officer of the Patent Office designated by the Commissioner, and shall be recorded in the Patent Office.

35 U.S.C. 154. Contents and term of patent. Every patent shall contain a short title of the invention and a grant to the patentee, his heirs or assigns, for the term of seventeen years, subject to the payment of issue fees as provided for in this title, of the right to exclude others from making, using, or selling the invention throughout the United States, referring to the specification for the particulars thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof.

DISCLAIMER

321. Statutory disclaimer in patent. A disclaimer under 35 U.S.C. 253 must identify the patent and the claim or claims which are disclaimed, and be signed by the person making the disclaimer, who shall state therein the extent of his interest in the patent. A disclaimer not a disclaimer of a complete claim or claims may be refused recordation. A notice of the disclaimer is published in the Official Gazette and attached to the printed copies of the specification. In like manner any patentee or applicant may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent, granted or to be granted. See rule 21 for fee.

35 U.S.C. 253. Disclaimer. Whenever, without any deceptive intention, a claim of a patent is invalid the remaining claims shall not thereby be rendered invalid. A patentee, whether of the whole or any sectional interest therein, may, on payment of the fee required by law, make disclaimer of any complete claim, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing, and recorded in the Patent Office; and it shall thereafter be considered as part of the original patent to the extent of the interest possessed by the disclaimant and by those claiming under him.

In like manner any patentee or applicant may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent granted or to be granted.

322. Certificate of correction of Office mistake. (a) A certificate of correction under 35 U.S.C. 254 may be issued at the request of the patentee or his assignee and endorsed on the patent itself. Such certificate will not be issued at the request or suggestion of anyone not owning an interest in the patent, nor on motion of the Office, without first notifying the patentee (including any assignee of record) and affording him an opportunity to be heard.

(b) If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form, the Commissioner may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correcction, without expense to the patentee.

35 U.S.C. 254. Certificate of correction of Patent Office mistake. Whenever a mistake in a patent, incurred through the fault of the Patent Office, is clearly disclosed by the records of the Office, the Commissioner may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of patents. A printed copy thereof shall be attached to each printed copy of the patent, and such certificate shall be considered as part of the original patent. Every such patent, together with such certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. The Commissioner may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction.

323. Certificate of correction of applicant's mistake. Whenever a mistake of a clerical or typographical nature or of minor character which was not the fault of the Office, appears in a patent and a showing is made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, which shall be endorsed on the patent itself, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination.

35 U.S.C. 255. Certificate of correction of applicant's mistake. Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form.

324. Correction of error in joining inventor. Whenever a patent is issued and it appears that there was a misjoinder or nonjoinder of inventors and that such misjoinder or omission occurred by error and without deceptive intention, the Commissioner may, on application of

all the parties and the assignees and satisfactory proof of the facts, or on order of a court before which such matter is called in question, issue a certificate deleting the misjoined inventor from the patent or adding the non-joined inventor to the patent.

35 U.S.C. 256. Misjoinder of inventor. Whenever a patent is issued on the application of persons as joint inventors and it appears that one of such persons was not in fact a joint inventor, and that he was included as a joint inventor by error and without any deceptive intention, the Commissioner may, on application of all the parties and assignees, with proof of the facts and such other requirements as may be imposed, issue a certificate deleting the name of the erroneously joined person from the patent.

Whenever a patent is issued and it appears that a person was a joint inventor, but was omitted by error and without deceptive intention on his part, the Commissioner may, on application of all the parties and assignees, with proof of the facts and such other requirements as may be imposed, issue a certificate adding his name to the patent as a joint inventor.

The misjoinder or nonjoinder of joint inventors shall not invalidate a patent, if such error can be corrected as provided in this section. The court before which such matter is called in question may order correction of the patent on notice and hearing of all parties concerned and the Commissioner shall issue a certificate accordingly.

325. Other mistakes not corrected. Mistakes other than those provided for in rules 322, 323, 324, and not affording legal grounds for reissue will not be corrected after the date of the patent.

ASSIGNMENTS AND RECORDING

331. Recording of assignments. (a) Assignments, including grants and conveyances, of patents or applications for patents under 35 U.S.C. 261, will be recorded in the Patent Office. Other instruments affecting title to a patent or application for patent, and licenses, even though the recording thereof may not serve as constructive notice under 35 U.S.C. 261, will be recorded as provided in this rule or in the discretion of the Commissioner.

(b) No instrument will be recorded which is not in the English language and which does not amount to an assignment, grant, mortgage, lien, incumbrance, or license, or which does not affect the title of the patent or invention to which it relates, and which does not identify the patent or application to which it relates, except as ordered by the Commissioner.

(c) An instrument relating to a patent should identify the patent by number and date (the name of the inventor and title of the invention as stated in the patent should also be given); an instrument relating to an application should identify the application by serial number and date of filing (the name of the inventor and title of the invention as stated in the application should also be given) but if an assignment is executed concurrently with or subsequent to the execution of the application but before the application is filed or before

its serial number and filing date are ascertained, it should adequately identify the application, as by its date of execution and name of the inventor and title of the invention; so that there can be no mistake as to the patent or application intended.

35 U.S.C. 261. Ownership; assignment. Subject to the provisions of this title, patents shall have the attributes of personal property.

Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States.

A certificate of acknowledgement under the hand and official seal of a person authorized to administer oaths within the United States, or, in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, shall be prima facie evidence of the execution of an assignment, grant or conveyance of a patent or application for patent.

An assignment, grant or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from its date or prior to the date of such subsequent purchase or mortgage.

332. Receipt and recording. Assignments are recorded in regular order as promptly as possible, and then transmitted with the date and identification of the record stamped thereon to the persons entitled to them. The date of the record is the date of the receipt of the assignment at the Office in proper form and accompanied by the full legal fee for recording.

333. Conditional assignments. Assignments which are made conditional on the performance of certain acts or events, as the payment of money or other condition subsequent, if recorded in the Office are regarded as absolute assignments for Office purposes until canceled with the written consent of both parties or by the decree of a competent court. The Office has no means for determining whether such conditions have been fulfilled.

334. Issue of patent to assignee. In case of an assignment of the entire interest in the invention and application, or of the entire interest in the patent to be granted, the patent will normally issue to the assignee; and if the assignee hold an undivided part interest, the patent will normally issue jointly to the inventor and the assignee; if it is desired that the patent so issue the assignment in either case must first have been recorded, and at a day not later than the date of the payment of the final fee; in the case of an application for reissue, the assignment must be recorded before the case is allowed; in the case of an application for a design patent, the assignment must be recorded at least ten days before the case is allowed.

35 U.S.C. 152. Issue of patent to assignee. Patents may be granted to the assignee of the inventor of record in the Patent Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided in this title.

RECOGNITION OF ATTORNEYS AND AGENTS

341. Registration of attorneys and agents. A register of attorneys and a register of agents are kept in the Patent Office on which are entered the names of all persons recognized as entitled to represent applicants before the Patent Office in the preparation and prosecution of applications for patent. Registration in the Patent Office under the provisions of these rules shall only entitle the persons registered to practice before the Patent Office.

(a) *Attorneys at law.* Any attorney at law in good standing admitted to practice before any United States Court or the highest court of any State or Territory of the United States who fulfills the requirements and complies with the provisions of these rules may be admitted to practice before the Patent Office and have his name entered on the register of attorneys.

(b) *Agents.* Any citizen of the United States not an attorney at law who fulfills the requirements and complies with the provisions of these rules may be admitted to practice before the Patent Office and have his name entered on the register of agents.

NOTE: All persons registered prior to November 15, 1938, were registered as attorneys, whether they were attorneys at law or not, and such registrations have not been changed.

(c) *Requirements for registration.* No person will be admitted to practice and registered unless he shall apply to the Commissioner of Patents in writing on a prescribed form supplied by the Commissioner and furnish all requested information and material; and shall establish to the satisfaction of the Commissioner that he is of good moral character and of good repute and possessed of the legal and scientific and technical qualifications necessary to enable him to render applicants for patents valuable service, and is otherwise competent to advise and assist them in the presentation and prosecution of their applications before the Patent Office. In order that the Commissioner may determine whether a person seeking to have his name placed upon either of the registers has the qualifications specified, satisfactory proof of good moral character and repute, and of sufficient basic training in scientific and technical matters must be submitted and an examination which is held from time to time must be taken and passed. Each application for admission to the examination for registration must be accompanied by the prescribed fee (see rule 21). The taking of an examination may be waived in the case of any person who has

actively served for four years in the examining corps of the Patent Office.

(d) *Registration of firms.* Any firm, the individual members of which are each registered on the register of attorneys, may have its name entered upon the register of attorneys. Any firm, one of the individual members of which is registered on the register of agents and each of the remaining individual members are registered either on the register of attorneys or the register of agents, may have its name entered on the register of agents. If the membership of the firm is changed, application must be made for registration of the firm as changed. Every application must be accompanied by the prescribed fee for registration of a firm (see rule 21).

(e) *Foreign patent attorneys and agents.* Any foreign patent attorney or agent not a resident of the United States who shall file proof to the satisfaction of the Commissioner that he is registered and in good standing before the patent office of the country in which he resides and practices, and is possessed of the qualifications stated in paragraph (c) of this rule, may be registered on the register of agents as entitled to represent applicants located in such country before the United States Patent Office in the presentation and prosecution of applications: *Provided*, That the patent office of such country allows substantially reciprocal privileges to those admitted to practice before the United States Patent Office. Such registration shall continue only during the period that the conditions specified obtain.

(f) *Government employees.* Officers and employees of the United States who are disqualified by statute (18 U.S.C. 203, 205) from practicing as attorneys or agents in proceedings or other matters before Government departments or agencies, may not be registered, and if any registered attorney or agent becomes such an officer or employee, his name on the register shall be endorsed as inactive during the period of such employment, but officers or employees whose official duties require the preparation and prosecution of applications for patent may be registered (on compliance with these rules) or recognized to practice, to the extent necessary to carry out their official duties.

18 U.S.C. 203. Compensation to Members of Congress, officers, and others in matters affecting the Government. (a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receives or agrees to receive, or asks, demands, solicits, or seeks, any compensation for any services rendered or to be rendered either by himself or another—

(1) at a time when he is a Member of Congress, Member of Congress Elect, Resident Commissioner, or Resident Commissioner Elect; or

(2) at a time when he is an officer or employee of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States, including the District of Columbia,

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial

interest, before any department, agency, court-martial, officer, or any civil, military, or naval commission, or

(b) Whoever, knowingly, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly gives, promises, or offers any compensation for any such services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Commissioner, officer, or employee—

Shall be fined not more than $10,000 or imprisoned for not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States.

(c) A special Government employee shall be subject to subsection (a) only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That clause (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

18 U.S.C. 205. Activities of officers and employees in claims against and other matters affecting the Government. Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, otherwise than in the proper discharge of his official duties—

(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim, or

(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or any civil, military, or naval commission in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest—

Shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

A special Government employee shall be subject to the preceding paragraphs only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That clause (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

Nothing herein prevents an officer or employee, if not inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings.

Nothing herein or in section 203 prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as

agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except in those matters in which he has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of his official responsibility, provided that the Government official responsible for appointment to his position approves.

Nothing herein or in section 203 prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States provided that the head of the department or agency concerned with the grant or contract shall certify in writing that the national interest so requires.

Such certification shall be published in the Federal Register.

Nothing herein prevents an officer or employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

18 U.S.C. 206. Exemption of retired officers of the uniformed services. Sections 203 and 205 of this title shall not apply to a retired officer of the uniformed services of the United States while not on active duty and not otherwise an officer or employee of the United States, or to any person specially excepted by Act of Congress.

(g) *Former examiners.* No person who has served in the examining corps of the Patent Office will be registered after termination of his services, nor, if registered before such service, be reinstated, unless he undertakes (1) not to prosecute or aid in any manner in the prosecution of any application pending in any examining division during his period of service therein; and (2) not to prepare or prosecute nor to assist in any manner in the preparation or prosecution of any application of another filed within two years after the date he left such division, and assigned to such division, without the specific authorization of the Commissioner. Associated and related classes in other divisions may be required to be included in the undertaking or designated classes may be excluded. In case application for registration or reinstatement is made after resignation from the Office, the applicant will not be registered, or reinstated, if he has prepared or prosecuted, or assisted in the preparation or prosecution of any such application as indicated in this paragraph. (See further 18 U.S.C. 207.)

18 U.S.C. 207. Disqualification of former officers and employees in matters connected with former duties or official responsibilities; disqualification of partners. (a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for anyone other than the United States in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially as an officer

or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed, or

(b) Whoever, having been so employed, within one year after his employment has ceased, appears personally before any court or department or agency of the Government as agent, or attorney for, anyone other than the United States in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or directly and substantially interested, and which was under his official responsibility as an officer or employee of the Government at any time within a period of one year prior to the termination of such responsibility—

Shall be fined not more than $10,000 or imprisoned for not more than two years, or both: *Provided*, That nothing in subsection (a) or (b) prevents a former officer or employee, including a former special Government employee, with outstanding scientific or technological qualifications from acting as attorney or agent or appearing personally in connection with a particular matter in a scientific or technological field if the head of the department or agency concerned with the matter shall make a certification in writing, published in the Federal Register, that the national interest would be served by such action or appearance by the former officer or employee.

(c) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest and in which such officer or employee of the Government or special Government employee participates or has participated personally and substantially as a Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or which is the subject of his official responsibility—

Shall be fined not more than $5,000, or imprisoned not more than one year, or both.

A partner of a present or former officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia or of a present or former special Government employee shall as such be subject to the provisions of sections 203, 205, and 207 of this title only as expressly provided in subsection (c) of this section.

(h) *Oath and registration fee.* Before his name may be entered on the register of attorneys or on the register of agents, every applicant for registration must, after his application is approved, subscribe and swear to an oath prescribed by the Commissioner of Patents and pay the prescribed registration fee. (See rule 21.)

(i) *Committee on Enrollment.* The Commissioner may establish a Committee on Enrollment to receive and act upon applications for registration to practice before the Patent Office, to conduct and supervise the examinations provided for in paragraph (c) of this rule, to maintain the registers and to perform such other duties in connection with enrollment and recognition of attorneys and agents as may be necessary; or such functions may be performed by designated officials

of the Patent Office. Any action of such committee or official may be reviewed by the Commissioner.

NOTE: See trademark rule 2.12 for practice in trademark cases.

342. Limited recognition. Any person not registered and not entitled to be recognized under rule 341 as an attorney or agent to represent applicants generally may, upon a showing of circumstances which render it necessary or justifiable, be recognized by the Commissioner to prosecute as attorney or agent a specified application or applications, but this limited recognition shall not extend further than the application or applications specified.

343. Persons not registered or recognized. No person or firm not registered or specifically recognized as provided in rule 342 will be permitted to prosecute applications of others before the Patent Office.

344. Professional conduct. Attorneys and agents appearing before the Patent Office must conform to the standards of ethical and professional conduct generally applicable to attorneys before the courts of the United States.

345. Advertising. (a) The use of advertising, circulars, letters, cards, and similar material to solicit patent business, directly or indirectly, is forbidden as unprofessional conduct, and any person engaging in such solicitation, or associated with or employed by others who so solicit, shall be refused recognition to practice before the Patent Office or may be suspended, excluded or disbarred from further practice.

(b) The use of simple professional letterheads, calling cards, or office signs, simple announcements necessitated by opening an office, change of association, or change of address, distributed to clients and friends, and insertion of listings in common form (not display) in a classified telephone or city directory, and listings and professional cards with biographical data in standard professional directories shall not be considered a violation of this rule.

(c) No agent shall, in any material specified in paragraph (b) of this section or in papers filed in the Patent Office, represent himself to be an attorney, solicitor or lawyer.

346. Signature and certificate of attorney. Every paper filed by an attorney or agent representing an applicant or party to a proceeding in the Patent Office must bear the signature of such attorney or agent, except papers which are required to be signed by the applicant or party in person (such as the application itself and affidavits required of applicants). The signature of an attorney or agent to a paper filed by him, or the filing or presentation of any paper by him,

constitutes a certificate that the paper has been read; that its filing is authorized; that to the best of his knowledge, information, and belief, there is good ground to support it; and that it is not interposed for delay. When an applicant or party is represented by a registered firm, such papers must carry the signature of the firm, or the signature of an individual member of the firm or an individual registered attorney or agent employed by the firm and duly authorized to sign on behalf of the firm in addition to the firm name, and the certification constituted by the signing or presentation of the paper shall be a certification by and on behalf of the firm and by the individual.

347. Removing names from registers. Attorneys, agents, and firms, registered to practice before the Patent Office, should notify the Office of any change of address for entry on the register, by letter separate from any notice of change of address filed in individual applications. The Office may address a letter to any person or firm on the registers, at the address of which separate notice for the register was last received, for the purpose of ascertaining whether such person or firm desires to remain on the register. The name of any person or firm failing to reply and give the information requested within a time limit specified will be removed from the register, and the names so removed published in the Official Gazette. Any name so removed may be reinstated, either on the register of attorneys or the register of agents, as may be appropriate.

348. Suspension or disbarment proceedings. Except as otherwise provided, proceedings for suspension, disbarment, or exclusion from practice are before a Commissioner.

(a) *Investigating and prosecuting officer.* The duties of investigation, preparing charges, collecting and presenting testimony, and presenting a case for suspension, exclusion from practice or disbarment shall be performed by the Solicitor of the Patent Office or, at his direction, by a designated law examiner or other person, and neither the Solicitor nor such law examiner or other person shall participate in any manner in the decision of the case. If, upon investigation of a complaint or other information concerning an attorney or agent, it shall appear to the Solicitor that grounds for suspension, exclusion from practice, or disbarment exist, he shall prepare and forward the necessary notice and statement.

(b) *Notice of proceedings.* Proceedings for suspension or disbarment shall be instituted by the Solicitor by mailing to, or otherwise serving on, the respondent a notice of such proceeding with a statement of the charges against him, at the same time forwarding a copy to the Commissioner. It shall be the duty of the respondent to answer the charges as specified in paragraph (c) of this rule.

(c) *Answer.* The respondent's answer shall be filed in writing with the Commissioner within thirty days from the time the notice is served on the respondent, or within such extension of time as may be allowed by the Commissioner for good cause shown. The answer shall be under oath. Failure to answer within the time allowed will be taken as an admission of the charges. The respondent in his answer should specifically admit or deny every material allegation of fact in the statement of charges; every allegation not denied shall be deemed admitted, unless the respondent states that he has no knowledge thereof sufficient to form a belief, which statement shall be considered a denial. Any special matters of defense shall be stated affirmatively in the answer. False statements in the answer may be made the basis of supplemental charges.

(d) *Hearing.* (1) Unless the Commissioner finds the answer sufficient to dispose of the charges, he will set the case for hearing before him, notifying the respondent and the Solicitor of the place, day and time of commencement of the hearing. Evidence as to the matters in issue may be submitted at the hearing, the testimony of witnesses being presented orally, under oath and reported.

(2) The hearing may be advanced and continued by the Commissioner, as far as may be deemed convenient and proper.

(3) Depositions for use at the hearing in lieu of personal appearance of witnesses may be taken by either the Solicitor or the respondent on application to and with the written consent of the Commissioner within such times and under such conditions as the Commissioner may prescribe.

(e) *Hearing officer.* The Commissioner may, in his discretion, delegate the conduct of the hearing to a hearing or trial examiner who shall be the presiding officer and who shall make a recommended decision.

(f) *Administrative Procedure Act.* Proceedings shall be governed, in matters not specially set forth herein, by the provisions of the Administrative Procedure Act, 60 Stat. 237; 5 U.S.C. 1001–1011, which may be applicable.

35 U.S.C. 31. Regulations for agents and attorneys. The Commissioner, subject to the approval of the Secretary of Commerce, may prescribe regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the Patent Office, and may require them, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other persons valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office.

35 U.S.C. 32. Suspension or exclusion from practice. The Commissioner may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before the Patent Office, any person, agent, or attorney shown to be incompetent or disreputable, or guilty of

gross misconduct, or who does not comply with the regulations established under section 31 of this title, or who shall, by word, circular, letter, or advertising, with intent to defraud in any manner, deceive, mislead, or threaten any applicant or prospective applicant, or other person having immediate or prospective business before the Office. The reasons for any such suspension or exclusion shall be duly recorded. The United States District Court for the District of Columbia under such conditions and upon such proceedings as it by its rules determines, may review the action of the Commissioner upon the petition of the person so refused recognition or so suspended or excluded.

35 U.S.C. 33. Unauthorized representation as practitioner. Whoever, not being recognized to practice before the Patent Office, holds himself out or permits himself to be held out as so recognized, or as being qualified to prepare or prosecute applications for patent, shall be fined not more than $1,000 for each offense.

AMENDMENT OF RULES

351. Amendments to rules will be published. All amendments to these rules will be published in the Official Gazette and in the Federal Register.

352. Publication of notice of proposed amendments. (a) Whenever required by law, and in other cases whenever practicable, notice of proposed amendments to these rules will be published in the Official Gazette and in the Federal Register. If not published with the notice, copies of the text will be furnished to any person requesting the same. All comments, suggestions, and briefs received within a time specified in the notice will be considered before adoption of the proposed amendments which may be modified in the light thereof.

(b) Oral hearings may be held at the discretion of the Commissioner.

FORMS

The following forms illustrate the manner of preparing various papers to be filed in the Patent Office. Applicants and other parties will find their business facilitated by following them. In special situations such alterations as the circumstances may render necessary may be made, provided they do not depart from the requirements of the rules or of the statute. Before using any form the pertinent rules of practice and sections of the statute should be studied carefully.

LIST OF FORMS

1. Petition for patent; by a sole inventor.
2. Petition for patent; by a sole inventor, for himself and assignee.
3. Petition for patent; by a sole inventor, with power of attorney.
4. Petition for patent; by joint inventors.
5. Petition for patent; by an administrator.
6. Petition for patent; by an executor.
7. Petition for patent; by the guardian of an insane person.

11. Oath to accompany application for patent.

11a. Declaration to accompany application for patent.

12. Oath to accompany application for patent, by an administrator (or executor).

12a. Declaration to accompany application for patent, by an administrator or (executor).

13. Oath not accompanying application.

13a. Declaration not accompanying application.

14. Supplemental oath for amendment presenting claims for matter disclosed but not originally claimed.

14a. Supplemental declaration for amendment presenting claims for matter disclosed but not originally claimed.

16. Combined petition, oath and specification (single signature form), sole inventor.

16a. Combined petition, declaration and specification (single signature form); sole inventor.

17. Oath in division or continuing application.

17a. Declaration in division or continuing application.

18. Oath in division or continuing application containing additional subject matter.

18a. Declaration in copending application containing additional subject matter.

21. Design patent application; petition.

22. Design patent application; specification.

23. Design patent application; oath.

23a. Design patent application; declaration.

25. Plant patent application; petition.

26. Plant patent application; oath.

26a. Plant patent application; declaration.

28. Reissue application, petition; by the inventor.

29. Reissue application, petition; by the assignee.

31. Reissue application, oath; by the inventor.

31a. Reissue application, declaration; by the inventor.

32. Reissue application, oath; by assignee.

32a. Reissue application, declaration; by assignee.

33. Oath as to loss of letters patent.

36. Power of attorney or authorization of agent, not accompanying application.

37. Revocation of power of attorney or authorization of agent.

39. Amendment.

41. Appeal from the Principal Examiner to the Board of Appeals.

43. Disclaimer in patent.

44. Interference; preliminary statement of domestic inventor.

45. Interference; preliminary statement of foreign inventor.

46. Interference; disclaimer during interference.

47. Interference; notice of taking testimony.

48. Interference; form of deposition.

49. Interference; certificate of officer.

1. *Petition for patent; by a sole inventor.*

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to him for the improvement in _____, set forth in the following specification.

(The specification and oath follow the petition.)

2. *Petition for patent; by a sole inventor, for himself and assignee.*

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to himself and _____, a citizen of the United States and a resident of _____, State of _____, whose post-office address is _____, as his assignee, for the improvement in _____, set forth in the following specification.

(The specification and oath follow the petition.)

3. *Petition for patent; by a sole inventor, with power of attorney.*

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States and a resident of _____, State of_____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to him for the improvement in _____, set forth in the following specification; and he hereby appoints _____, of _____, _____ (Registration No. _____), his attorney (or agent), to prosecute this application and to transact all business in the Patent Office connected therewith.

(The specification and oath follow the petition.)

4. *Petition for patent; by joint inventors.*

To the Commissioner of Patents:

Your petitioners, _____ and _____, citizens of the United States and residents, respectively, of _____, State of _____, and of _____, State of _____ (or subjects, etc.), whose post-office addresses are, respectively, _____ and _____, pray that letters patent may be granted to them, as joint inventors, for the improvement in _____, set forth in the following specification.

(The specification and oath follow the petition.)

5. *Petition for patent; by an administrator.*

To the Commissioner of Patents:

Your petitioner, A _____ B _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, administrator of the estate of C _____ D _____, late a citizen of the United States and resident of _____, State of _____, deceased (as by reference to the duly certified copy of letters of administration, hereto annexed, will more fully appear), prays that letters patent may be granted to him for the invention of the said C _____ D _____ for an improvement in _____, set forth in the following specification.

(The specification and oath follow the petition.)

6. *Petition for patent; by an executor.*

To the Commissioner of Patents:

Your petitioner, A _____ B _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, executor of the last will and testament of C _____ D _____, late a citizen of the United States and resident of _____, State of _____, deceased (as by reference to the duly certified copy of letters testamentary, hereto annexed, will more fully appear), prays that letters patent may be granted to him for the invention of the said C _____ D _____ for an improvement in _____, set forth in the following specification.

(The specification and oath follow the petition.)

7. *Petition for patent; by the guardian of an insane person.*

To the Commissioner of Patents:

Your petitioner, A _____ B _____, a citizen of the United States and a resident of _____, State of _____ (or

subject, etc.), whose post-office address is _____, and who has been appointed guardian (or conservator or representative) of C _____ D _____ (as by reference to the duly certified copy of the order of court, hereto annexed, will more fully appear), prays that letters patent may be granted to him for the invention of the said C _____ D _____ for an improvement in _____, set forth in the following specification.

(The specification and oath follow the petition.)

11. *Oath to accompany application for patent.*

(The petition and specification precede the oath.)

_____ } ss.
_____ }

(1) _____, the above-named petitioner____, being sworn (or affirmed), depose__ and say__ that _____ citizen__ of the United States (2) and resident__ of (3) _____, that _____ verily believe__ (4) _____ to be the original, first, and (5) __ inventor of the improvement in (6) _____ described and claimed in the annexed specification; that (7) _____ do_____ not know and do ____ not believe that the same was ever known or used before (8) _____ invention thereof, or patented or described in any printed publication in any country before (8) _____ invention thereof, or more than one year prior to this application, or in public use or on sale in the United States more than one year prior to this application; that said invention has not been patented in any country foreign to the United States on an application filed by (9) _____ or (8) _____ legal representatives or assigns more than twelve months prior to this application; and that no application for patent on said invention has been filed by (9) _____ or (8) _____ representatives or assigns in any country foreign to the United States, except as follows: (10) _____.

Inventor's full name. (11) _____
_____

(Signature)

Sworn to and subscribed before me this _____ day of _____, 19____.

[SEAL]

_____

(Signature of notary or officer)

(12) _____

(Official character)

NOTES: See rules 65, 66, and 68.

(1) Name of inventor; if the invention is joint, the names of all the joint inventors.

(2) If the applicant be an alien, state of what foreign country he is a citizen or subject.

(3) Give city and state, or if a foreign resident, city and country, of residence. If more than one inventor give residences of each inventor if different. Street address need not be given here as it appears elsewhere.

(4) "Himself", in the case of a sole inventor; "themselves" in the case of joint inventors.

(5) "Sole" in the case of a sole inventor; "joint" in the case of joint inventors.

(6) Title of the invention.

(7) "He" in the case of a sole inventor; "they" in the case of joint inventors.

(8) "His" in the case of a sole inventor; "their" in the case of joint inventors.

(9) "Him" in the case of a sole inventor; "them" in the case of joint inventors.

(10) If no application has been filed in a foreign country strike out the words "except as follows:". If one or more applications have been filed in foreign countries, the first application and each application more than twelve months old (six months in design cases) must be recited. The country and date of filing the foreign application must be given and the number of the application or other identifying data may also be stated. The claim for priority under 35 U.S.C. 119 (see rule 55) may be made here. The following examples illustrate various situations.

(a) Only one prior foreign application filed: state "in (country) on (date)." If the right of priority is also claimed add "the right of priority of which application is claimed."

(b) More than one prior foreign application: state "in (country) on (date) and in other countries on subsequent dates." The country and date do not need to be recited except for the first filed application and each application more than twelve months old (six months in design cases).

(11) All oaths must bear the signature of the affiant.

(12) See rule 66 for officers who may administer oaths, and for oaths executed in foreign countries.

11a. *Declaration to accompany application for patent.*

(Rules 65 and 68 provide for a declaration in lieu or in place of an oath in certain instances. The petition and specification precede the declaration.)

(1) _____, the above-named petitioner__ declare__ that_____ citizen__ of the United States (2) and resident__ of (3) _____ that _____ verily believe__ (4) _____ to be the original, first, and (5) _____ inventor__ of the improvement in (6) _____ described and claimed in the annexed specification; that (7) _____ do__ not know and do__ not believe that the same was ever known or used before (8) _____ invention thereof, or patented or described in any printed publication in any country before (8) _____ invention thereof, or more than one year prior to this application, or in public use or on sale in the United States more than one year prior to this application; that said invention has not been patented in any country foreign to the United States on an application filed by (9) _____ or (8) _____ legal representatives or assigns more than twelve months prior to this application; and that no application for patent on said invention has been filed by (9) _____ or (8) _____ representatives or assigns in any country foreign to the United States, except as follows: (10) _____.

The undersigned petitioner__ declare__ further that all statements made herein of (8) _____ own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Inventor's full name or names (11) _____

_____

(Signature)

Date _____.

NOTES: See rules 65 and 68.

(1) Name of inventor; if the invention is joint, the names of all the joint inventors.

(2) If the applicant be an alien, state of what foreign country he is a citizen or subject.

(3) Give city and state, or if a foreign resident, city and country, of residence. If more than one inventor give residence of each inventor if different. Street address need not be given here as it appears elsewhere.

(4) "Himself" in the case of a sole inventor; "themselves" in the case of joint inventors.

(5) "Sole" in the case of a sole inventor; "joint" in the case of joint inventors.

(6) Title of the invention.

(7) "He" in the case of a sole inventor; "they" in the case of joint inventors.

(8) "His" in the case of a sole inventor; "their" in the case of joint inventors.

(9) "Him" in the case of a sole inventor; "them" in the case of joint inventors.

(10) If no application has been filed in a foreign country strike out the words "except as follows:". If one or more applications have been filed in foreign countries, the first application and each application more than twelve months old (six months in design cases) must be recited. The country and date of filing the foreign application must be given and the number of the application or other identifying data may also be stated. The claim for priority under 35 U.S.C. 119 (see rule 55) may be made here. The following examples illustrate various situations.

(a) Only one prior foreign application filed: state "in (country) on (date)." If the right of priority is also claimed add "the right of priority of which application is claimed."

(b) More than one prior foreign application: state "in (country) on (date) and in other countries on subsequent dates." The country and date do not need to be recited except for the first filed application and each application more than twelve months old (six months in design cases).

(11) All petitioners are to sign (see rule 41).

12. *Oath to accompany application for patent, by an administrator (or executor).*

A ---------- B ----------, that above-named petitioner, being sworn (or affirmed), deposes and says that he is a citizen of the United States of America and a resident of ----------, that he is the administrator of the estate (or executor of the last will and testament) of C ---------- D ----------, deceased, late a citizen of the United States and resident of ----------, that he verily believes the said C ---------- D ---------- to be the original, first and sole inventor of the improvement in ---------- described and claimed in the foregoing specification; that he does not know and does not believe that the same was ever known or used before the invention thereof by the said C ---------- D ----------, or patented or described in any printed publication in any country before the said invention thereof, or more than one year prior to this application, or in public use or on sale in the United States more than one year prior to this application; that said invention has not been patented in any country foreign to the United States on an application filed by the said C ---------- D ---------- or his legal representatives or assigns more than twelve months prior to this application; and that no application for patent on said invention has been filed by the said C ---------- D ---------- or his representatives or assigns in any country foreign

to the United States, except as follows: _____

A _____ B _____

(Signature)
Administrator, etc.

_____ } ss:
_____ }

Sworn to and subscribed before me this _____ day of _____, 19_____.

[SEAL]

_____
(Signature of notary or officer)

_____
(Official character)

12a. *Declaration to accompany application for patent by an administrator (or executor).*

(Rules 65 and 68 provide for a declaration in lieu or in place of an oath in certain instances.)

A _____ B _____, the above-named petitioner, declares that he is a citizen of the United States of America and a resident of _____, that he is the administrator of the estate (or executor of the last will and testament) of C _____ D _____, deceased, late a citizen of the United States and resident of _____, that he verily believes the said C _____ D _____ to be the original, first and sole inventor of the improvement in _____ described and claimed in the foregoing specification; that he does not know and does not believe that the same was ever known or used before the invention thereof by the said C _____ D _____, or patented or described in any printed publication in any country before the said invention thereof, or more than one year prior to this application, or in public use or on sale in the United States more than one year prior to this application; that said invention has not been patented in any country foreign to the United States on an application filed by the said C _____ D _____ or his legal representatives or assigns more than twelve months prior to this application; and that no application for patent on said invention has been filed by the said C _____ D _____ or his representatives or assigns in any country foreign to the United States except as follows: _____.

The undersigned petitioner declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon. Inventor's full name or names _____.

_____
(Signature)

Date _____.

13. *Oath not accompanying application.*

_____, } ss:
_____, }

_____, being sworn (or affirmed), deposes and says that he is a citizen of the United States of America and resident of

----------, that on ----------, 19----, he filed application for patent Serial No. ---------- in the United States Patent Office, that he verily believes himself to be the original, first and sole inventor of the improvement in ----------
described and claimed in the specification of said application for patent; that he does not know and does not believe that the same was ever known or used before his invention thereof, or patented or described in any printed publication in any country before his invention thereof, or more than one year prior to the date of said application, or in public use or on sale in the United States more than one year prior to the date of said application; that said invention has not been patented before the date of said application in any country foreign to the United States on an application filed by him or his legal representatives or assigns more than twelve months prior to the date of said application; and that no application for patent on said invention has been filed by him or his representatives or assigns in any country foreign to the United States, except as follows: ----------

Inventor's full name: ----------

Sworn to and subscribed before me this ------ day of ----------, 19----.

[SEAL]

(Signature of notary or officer)

(Official character)

13a. *Declaration not accompanying application.*

(Rules 65 and 68 provide for a declaration in lieu or in place of an oath in certain instances.)

A ---------- B ----------, declares that he is a citizen of the United States of America and resident of ----------, that on ----------, 19----, he filed application for patent Serial No. --------- in the United States Patent Office, that he verily believes himself to be the original, first and sole inventor of the improvement in ---------- described and claimed in the specification of said application for patent; that he does not know and does not believe that the same was ever known or used before his invention thereof, or patented or described in any printed publication in any country before his invention thereof, or more than one year prior to the date of said application, or in public use or on sale in the United States more than one year prior to the date of said application; that said invention has not been patented before the date of said application in any country foreign to the United States on an application filed by him or his legal representatives or assigns more than twelve months prior to the date of said application; and that no application for patent on said invention has been filed by him or his representatives or assigns in any country foreign to the United States, except as follows:

The undersigned petitioner-- declare-- further that all statements made herein of ---------- own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon. Inventor's full name or names ----------

----

(Signature)

Date ----------.

14. *Supplemental oath for amendment presenting claims for matter disclosed but not originally claimed.*

----------, } *ss:*
----------, }

----------, whose application for letters patent for an improvement in ----------, Serial No. ----------, was filed in the United States Patent Office on or about the ---------- day of ----------, 19----, being duly sworn (or affirmed) deposes and says that the subject matter of the foregoing (1) amendment was part of his invention, was invented before he filed his original application, above identified, for such invention; that he does not know and does not believe that the same was ever known or used before his invention thereof, or patented or described in any printed publication in any country before his invention thereof, or more than one year before his application, or in public use or on sale in the United States more than one year before the date of his application, that said invention has not been patented in any foreign country before the date of his application on an application filed by himself or his legal representatives or assigns more than twelve months prior to his application in the United States, and has not been abandoned.

(Signature)

Sworn to and subscribed before me this ------ day of ----------, 19----.

[SEAL]

(Signature of notary or officer)

(Official character)

NOTE: (1) If the supplemental oath does not accompany the amendment, the amendment should be identified. See rule 67.

14a. *Supplemental declaration for amendment presenting claims for matter disclosed but not originally claimed.*

(Rules 65 and 68 provide for a declaration in lieu or in place of an oath in certain instances.)

----------, whose application for Letters Patent for an improvement in ----------, Serial No. --------, was filed in the United States Patent Office on or about the ---------- day of ----------, 19--, declares that the subject matter of the foreging (1) amendment was part of his invention, was invented before he filed his original application, above identified, for such invention; that he does not know and does not believe that the same was ever known or used before his invention thereof, or patented or described in any printed publication in any country before his invention thereof, or more than one year before his application, or in public use or on sale in the United States more than one year before the date of his application, that said invention has not been patented in any foreign country before the date of his application on an application filed by himself or his legal representatives or assigns more than twelve months prior to his application in the United States, and has not been abandoned.

The undersigned petitioner-- declare-- further that all statements made herein of ---------- own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements

were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Inventor's full name or names _____

_____

(Signature)

Date _____.

NOTE: (1) If the supplemental declaration does not accompany the amendment, the amendment should be identified. See rule 67.

16. *Combined petition, oath and specification (single signature form); sole inventor.*

[Title of Invention]

[Specification]

Being duly sworn, I, _____, depose and say that I am a citizen of _____, residing at _____; that I have read the foregoing specification and claims and I verily believe I am the original, first, and sole inventor of the invention in _____ described and claimed therein; that I do not know and do not believe that this invention was ever known or used before my invention thereof, or patented or described in any printed publication in any country before my invention thereof, or more than one year prior to this application, or in public use or on sale in the United States more than one year prior to this application; that this invention has not been patented in any country foreign to the United States on an application filed by me or my legal representatives or assigns more than twelve months before this application; and that no application for patent on this invention has been filed by me or my representatives or assigns in any country foreign to the United States, except as follows:

And I hereby appoint _____ Registration No. _____, my attorney (or agent) to prosecute this application and to transact all business in the Patent Office connected therewith.

Wherefore I pray that Letters Patent be granted to me for the invention or discovery described and claimed in the foregoing specification and claims, and I hereby subscribe my name to the foregoing specification and claims, oath, power of attorney, and this petition.

Inventor _____

(First name) (Middle initial) (Last name)

Post office address: _____

_____

State of _____ }
County of _____ } *ss:*

Before me personally appeared _____, to me known to be the person described in the above application for patent, who signed the foregoing instrument in my presence, and made oath before me to the allegations set forth therein as being under oath, on the _____ day of _____, 19____.

[SEAL]

_____

(Notary Public or Officer)

NOTE: This form may be executed only when attached to a complete application as the last page thereof.

16a. *Combined petition, declaration and specification (single signature form); sole inventor.*

(Rules 65 and 68 provide for a declaration in lieu or in place of an oath in certain instances.)

[TITLE OF INVENTION]

[SPECIFICATION]

I, _____, declare that I am a citizen of _____, residing at _____; that I have read the foregoing specification and claims and I verily believe I am the original, first, and sole inventor of the invention in _____ described and claimed therein; that I do not know and do not believe that this invention was ever known or used before my invention thereof, or patented or described in any printed publication in any country before my invention thereof, or more than one year prior to this application; or in public use or on sale in the United States more than one year prior to this application; that this invention has not been patented in any country foreign to the United States on an application filed by me or my legal representatives or assigns more than twelve months before this application; and that no application for patent on this invention has been filed by me or my representatives or assigns in any country foreign to the United States, except as follows:

And I hereby appoint _____, Registration No. _____, my attorney (or agent) to prosecute this application and to transact all business in the Patent Office connected therewith.

Wherefore I pray that Letters Patent be granted to me for the invention or discovery described and claimed in the foregoing specification and claims, and I hereby subscribe my name to the foregoing specification and claims, declaration, power of attorney, and this petition.

The undersigned petitioner__ declare__ further that all statements made herein of _____ own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Inventor's full name or names _____

_____

(Signature)

Date _____.

Post office address: _____.

NOTE: This form may be executed only when attached to a complete application as the last page thereof.

17. *Oath in division or continuing application.*

[This form of oath may be used with an application disclosing and claiming only subject matter disclosed in a prior copending application of the same inventor.]

_____, the above-named petitioner, being sworn (or affirmed), deposes and says that he is a citizen of the United States and resident of _____, that he verily believes himself to be the original, first and sole inventor of the improvement in _____ described and claimed in the foregoing specification; that this application discloses and claims only subject matter disclosed in his pending application, Serial No. _____, filed _____; that he does not know and does not believe that the said invention was ever known or used before his invention thereof, or patented or described in any printed

publication in any country before his invention thereof, or more than one year prior to said application, or in public use or on sale in the United States more than one year prior to said application; that said invention has not been patented before the date of said application in any country foreign to the United States on an application filed by him or his legal representatives or assigns more than twelve months prior to said application; and that no application for patent on said invention has been filed by him or his representatives or assigns in any country foreign to the United States, except as follows:

Inventor's full name: _____

_____

(Signature)

_____ }
_____ } ss:

Sworn to and subscribed before me this _____ day of _____, 19____.

[SEAL]

_____

(Signature of notary or officer)

_____

(Official character)

17a. *Declaration in division or continuing application.*

(Rules 65 and 68 provide for a declaration in lieu or in place of an oath in certain instances.)

[This form of declaration may be used with an application disclosing and claiming only subject matter disclosed in a prior copending application of the same inventor.]

_____; the above-named petitioner declares that he is a citizen of the United States and resident of _____, that he verily believes himself to be the original, first, and sole inventor of the improvements in _____ described and claimed in the foregoing specification, that this application discloses and claims only subject matter disclosed in his pending application, Serial No. _____, filed _____; that he does not know and does not believe that the said invention was ever known or used before his invention thereof, or patented or described in any printed publication in any country before his invention thereof, or more than one year prior to said application, or in public use or on sale in the United States more than one year prior to said application; that said invention has not been patented before the date of said application in any country foreign to the United States on an application filed by him or his legal representatives or assigns more than twelve months prior to said application; and that no application for patent on said invention has been filed by him or his representatives or assigns in any country foreign to the United States, except as follows: _____

The undersigned petitioner__ declare__ further that all statements made herein of _____ own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon. Inventor's full name or names _____

_____

(Signature)

Date _____.

18. *Oath in copending application containing additional subject matter.*

[This form of oath may be used with an application disclosing and claiming subject matter disclosed in a prior copending application of the same inventor and also disclosing additional subject matter.]

----------, the above-named petitioner, being sworn (or affirmed), deposes and says that he is a citizen of the United States and resident of ----------, that he verily believes himself to be the original, first and sole inventor of the improvement in ---------- described and claimed in the foregoing specification; that this application in part discloses and claims subject matter disclosed in his earlier filed pending application, Serial No. ----------, filed ----------; that, as to the subject matter of this application which is common to said earlier application he does not know and does not believe that the same was ever known or used before his invention thereof or patented or described in any printed publication in any country before his invention thereof or more than one year prior to said earlier application, or in public use or on sale in the United States more than one year prior to said earlier application; that said common subject matter has not been patented before the date of said earlier application in any country foreign to the United States on an application filed by him or his legal representatives or assigns more than twelve months prior to said application; and that no application for patent on said invention has been filed by him or his representatives or assigns in any country foreign to the United States, except as follows ----------; that, as to the subject matter of this application which is not common to said earlier application, he does not know and does not believe that the same was ever known or used before his invention thereof or patented or described in any printed publication in any country before his invention thereof or more than one year prior to the date of this application, or in public use or on sale in the United States more than one year prior to the date of this application, and that said subject matter has not been patented in any country foreign to the United States on an application filed by him or his legal representatives or assigns more than twelve months prior to the date of this application; and that no application for patent on said invention has been filed by him or his representatives or assigns in any country foreign to the United States, except as follows:

Inventor's full name: ----------

(Signature)

----------}
----------} *ss:*

Sworn to and subscribed before me this ____ day of ----------, 19____.

[SEAL]

(Signature of notary or officer)

(Official character)

18a. *Declaration in copending application containing additional subject matter.*

(Rules 65 and 68 provide for a declaration in lieu or in place of an oath in certain instances.)

[This form of declaration may be used with an application disclosing and claiming subject matter disclosed in a prior copending application of the same inventor and also disclosing additional subject matter.]

----------, the above-named petitioner, declares that he is a citizen of the United States and resident of ----------, that he verily believes himself to be the original, first and sole inventor of the improvement in ---------- described and claimed in the foregoing specification; that this application in part discloses and claims subject matter disclosed in his earlier filed pending application, Serial No. ----------, filed ----------; that, as to the subject matter of this application which is common to said earlier application, he does not know and does not believe that the same was ever known or used before his invention thereof or patented or described in any printed publication in any country before his invention thereof or more than one year prior to said earlier application, or in public use or on sale in the United States more than one year prior to said earlier application; that said common subject matter has not been patented before the date of said earlier application in any country foreign to the United States on an application filed by him or his legal representatives or assigns more than twelve months prior to said application; and that no application for patent on said invention has been filed by him or his representatives or assigns in any country foreign to the United States, except as follows ----------; that, as to the subject matter of this application which is not common to said earlier application, he does not know and does not believe that the same was ever known or used before his invention thereof or patented or described in any printed publication in any country before his invention thereof or more than one year prior to the date of this application, or in public use or on sale in the United States more than one year prior to the date of this application, and that said subject matter has not been patented in any country foreign to the United States on an application filed by him or his legal representatives or assigns more than twelve months prior to the date of this application; and that no application for patent on said invention has been filed by him or his representatives or assigns in any country foreign to the United States, except as follows: ----------.

The undersigned petitioner-- declare-- further that all statements made herein of ---------- own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon. Inventor's full name or names ----------.

(Signature)

Date ----------.

21. *Design patent application; petition.*

To the Commissioner of Patents:

Your petitioner, ----------, a citizen of the United States and a resident of ----------, State of ---------- (or subject, etc.), whose post-office address is ----------, prays that letters patent may be granted to him for the term of three and one-half years (or seven years, or fourteen years) for the new and original design for ----------, set forth in the following specification.

(The specification and oath, or declaration, follow the petition.)

22. *Design patent application; specification.*

Be it known that I, ----------, have invented a new, original, and ornamental design for (1) ----------, of which the following

is a specification, reference being had to the accompanying drawing, forming a part hereof.

Fig. 1 is a (2) _____

Fig. 2 is (2) _____

I claim:

The ornamental design for a (1) _____ as shown.

_____

(Signature)

NOTES: (1) Insert specific name of article.

(2) Insert brief description of figure or figures of the drawing.

23. *Design patent application; oath.*

_____,
_____, } ss:

_____, the above-named petitioner__, being sworn (or affirmed), depose__ and say__ that_____ citizen__ of _____ and resident__ of _____, that_____ verily believe__ _____ to be the original, first and _____ inventor__ of the design for _____ described and claimed in the foregoing specification; that_____ do__ not know and do__ not believe that the same was ever known or used before _____ invention thereof, or patented or described in any printed publication in any country before _____ invention thereof, or more than one year prior to this application, or in public use or on sale in the United States more than one year prior to this application; that said design has not been patented in any country foreign to the United States on an application filed by _____ or _____ legal representatives or assigns more than six months prior to this application; and that no application for patent on said design has been filed by _____ or _____ representatives or assigns in any country foreign to the United States, except as follows: _____

Inventor's full name: _____

_____

(Signature)

_____
_____ } ss:

Sworn to and subscribed before me this _____ day of _____, 19_____

[SEAL]

_____

(Signature of notary or officer)

_____

(Official character)

NOTE: See applicable notes under form 11.

23a. *Design patent application; declaration.*

(Rules 65 and 68 provide for a declaration in lieu or in place of an oath in certain instances.)

_____, the above-named petitioner__, declare__ that _____ citizen__ of _____, and resident__ of _____, that _____ verily believe__ to be the original, first and _____

inventor__ of the design for _____ described and claimed in the foregoing specification; that _____ do__ not know and do__ not believe that the same was ever known or used before _____ invention thereof, or patented or described in any printed publication in any country before _____ invention thereof, or more than one year prior to this application, or in public use or on sale in the United States more than one year prior to this application; that said design has not been patented in any country foreign to the United States on an application filed by _____ or _____ legal representatives or assigns more than six months prior to this application; and that no application for patent on said design has been filed by _____ or _____ representatives or assigns in any country foreign to the United States, except as follows: _____ _____.

The undersigned petitioner__ declare__ further that all statements made herein of _____ own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon. Inventor's full name or names _____.

_____

(Signature)

Date _____.

Post Office address _____.

NOTE: See applicable notes under form 11a.

25. *Plant patent application; petition.*

Your petitioner, _____, a citizen of the United States and a resident of _____, in the State of _____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to him for the new and distinct variety of _____, set forth in the following specification.

(The specification and oath, or declaration, follow the petition.)

26. *Plant patent application, oath.*

_____, the above-named petitioner, being sworn (or affirmed), deposes and says that he is a citizen of the United States of America and resident of _____ that he verily believes himself to be the original, first, and sole inventor of the new and distinct variety of _____ described and claimed in the foregoing specification; that he has asexually reproduced the said new and distinct variety; that he does not know and does not believe that the same was ever known or used before his invention thereof, or patented or described in any printed publication in any country before his invention thereof, or more than one year prior to this application, or in public use or on sale in the United States more than one year prior to this application; that said invention has not been patented in any country foreign to the United States on an application filed by him or his legal representatives or assigns more than twelve months prior to this application; and that no application for patent on said new and distinct variety of plant has been filed

by him or his representatives or assigns in any country foreign to the United States, except as follows:

Inventor's full name: _____

_____

(Signature)

_____ }
_____ } ss:

Sworn to and subscribed before me this _____ day of _____, 19_____.

_____

[SEAL] (Signature of notary or officer)

_____

(Official character)

26a. *Plant patent application, declaration.*

(Rules 65 and 68 provide for a declaration in lieu or in place of an oath in certain instances.)

A _____ B _____, the above-named petitioner declares that he is a citizen of the United States of America and resident of _____ that he verily believes himself to be the original, first and sole inventor of the new and distinct variety of _____ described and claimed in the foregoing specification; that he has asexually reproduced the said new and distinct variety; that he does not know and does not believe that the same was ever known or used before his invention thereof, or patented or described in any printed publication in any country before his invention thereof, or more than one year prior to this application, or in public use or on sale in the United States more than one year prior to this application; that said invention has not been patented in any country foreign to the United States on an application filed by him or his legal representatives or assigns more than twelve months prior to this application; and that no application for patent on said new and distinct variety of plant has been filed by him or his representatives or assigns in any country foreign to the United States, except as follows:

The undersigned petitioner__ declare__ further that all statements made herein of _____ own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon. Inventor's full name or names _____

_____

(Signature)

Date _____

Post office address _____

28. *Reissue application, petition; by the inventor.*

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that he may be allowed to surrender the letters patent for an improvement in _____, No. _____ granted to him _____, 19____, whereof he is now sole owner (or whereof _____, on whose behalf and with whose assent this application is made, is now sole owner, by assignment), and that letters patent may be reissued to

him (or the said_____) for the same invention upon the following amended specification. With this petition is filed an abstract of title, duly certified (or an order for a title report), as required in such cases.

[Assent of assignee to reissue]

The undersigned, assignee of the entire (or of an undivided) interest in the above-mentioned letters patent, hereby assents to the accompanying application.

_____
(Signature)

29. *Reissue application, petition; by the assignee.*

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that he may be allowed to surrender the letters patent for an improvement in _____, No. _____, granted _____, 19____, to _____, now deceased, whereof he is now owner, by assignment of the entire interest, and that the letters patent may be reissued to him for the same invention, upon the following amended specification. With this petition is filed an abstract of title (or an order for a title report).

_____
(Signature)

NOTE: To be used when the inventor is dead; may also be used with appropriate changes when the reissue application does not seek to enlarge the claims of the original patent.

31. *Reissue application, oath; by the inventor.*

_____, the above-named petitioner, being duly sworn (or affirmed), deposes and says that he is a citizen of the United States of America, and a resident of _____, in the State of _____; that he verily believes himself to be the original, first and sole inventor of the invention described and claimed in letters patent No. _____ and in the foregoing specification and for which improvement he solicits a patent; that he does not know and does not believe that said improvement was ever known or used before his invention thereof, that (continue with the allegations and facts required by rule 175)_____

Inventor's full name: _____

_____
(Signature)

_____ } *ss:*
_____ }

Subscribed and sworn to before me this _____ day of _____, 19____.
[SEAL]

_____
(Signature of notary or officer)

_____
(Official character)

31a. *Reissue application, declaration; by the inventor.*

(Rules 65 and 68 provide for a declaration in lieu or in place of an oath in certain instances.)

_____, the above-named petitioner, declares that he is a citizen of the United States of America, and a resident of _____ in the State of _____; that he verily believes himself to be

the original, first, and sole inventor of the invention described and claimed in letters patent No. _____ and in the foregoing specification and for which improvement he solicits a patent; that he does not know and does not believe that said improvement was ever known or used before his invention thereof, that (continue with the allegations and facts required by rule 175) _____

The undersigned petitioner__ declare__ further that all statements made herein of _____ own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon. Inventor's full name or names _____

_____

(Signature)

Date _____.

Post office address _____

32. *Reissue application, oath; by assignee.*

A _____ B _____, the above-named petitioner, being duly sworn (or affirmed), deposes and says that he is a citizen of the United States and resident of _____ in the State of _____; that the entire title of letters patent No. _____, for _____, granted on _____ to C _____ D _____, is vested in him; that he verily believes the said C _____ D _____ to be the original, first and sole inventor of the invention described and claimed in the aforesaid letters patent and in the foregoing specification; that he does not know and does not believe that said invention was ever known or used before the invention thereof by the said C _____ D _____; that (continue with the allegations and facts required by rule 175) _____

Assignee's full name _____

_____ }
_____ } *ss:*

Sworn to and subscribed before me this ____ day of _____, 19____.

[SEAL]

_____

(Signature of notary or officer)

_____

(Official character)

NOTE: May be used only when the reissue application does not seek to enlarge the claims of the original patent.

32a. *Reissue application, declaration; by assignee.*

(Rules 65 and 68 provide for a declaration in lieu or in place of an oath in certain instances.)

A _____ B _____, the above-named petitioner, says that he is a citizen of the United States and resident of _____ in the State of _____; that the entire title of letters patent No. _____, for _____, granted on _____ to C _____ D _____, is vested in him; that he verily believes the said C _____ D _____ to be the original, first and sole inventor of the invention described and claimed in the aforesaid letters patent and in the foregoing specification; that he does not know and

does not believe that said invention was ever known or used before the invention thereof by the said C _____ D _____; that (continue with the allegations and facts required by rule 175) _____.

The undersigned petitioner__ declare__ further that all statements made herein of _____ own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon. Inventor's full name or names _____

_____

(Signature)

Date _____.

Post office address _____

NOTE: May be used only when the reissue application does not seek to enlarge the claims of the original patent.

33. *Oath as to loss of letters patent.*

_____ }
_____ } *ss:*

_____, being duly sworn (or affirmed), depose and say __ that the letters patent No. _____, granted to him, and bearing date on the ____ day of _____, 19__, has been either lost or destroyed; that he has made diligent search for the said letters patent in all places where the same would probably be found, if existing, and that he has not been able to find it.

_____

(Signature)

Subscribed and sworn to before me this _____ day of _____, 19__.
[SEAL]

_____

(Signature of notary or officer)

_____

(Official character)

36. *Power of attorney or authorization of agent, not accompanying application.*

[If the power of attorney or authorization of agent be given at any time other than that of making application for letters patent, it will be in substantially the following form:]

To the Commissioner of Patents:

The undersigned having, on or about the _____ day of _____, 19____, made application for letters patent for an improvement in _____ serial number _____, hereby appoints _____ of _____, State of _____, Registration No. _____ his attorney (or agent), to prosecute said application, and to transact all business in the Patent Office connected therewith.

_____

(Signature)

37. *Revocation of power of attorney or authorization of agent.*

To the Commissioner of Patents:

The undersigned having, on or about the _____ day of _____, 19____, appointed _____, of _____, State of _____, his attorney (or agent) to prosecute an application for letters patent which application was filed on or about the _____ day of _____, 19____, for an improvement in _____, serial number _____, hereby revokes the power of attorney (or authorization of agent) then given.

_____
(Signature)

39. *Amendment.*

Applicant: _____
Ser. No. _____ (Date)
Filed _____ Div. _____
For _____

To the Commissioner of Patents:

In response to the office letter of _____ 19____, please amend as follows:

Page_____, line_____, change "_____" to_____.
Page_____, line_____, after "_____" insert_____.
Page_____, line_____, to end, cancel.
Claim_____, cancel lines_____ and _____ and substitute_____.
Cancel claims_____ inclusive.
Add the following claims:

Remarks

(Here state nature and purpose of the amendments and make all explanations necessary for a response to the rejections and objections of record, etc. See rules 111, 115–126, 135.)

Respectfully,

_____
Applicant
By _____
His Attorney (or Agent)

41. *Appeal from the Principal Examiner to the Board of Appeals.*

In re application of_____
Serial Number_____
Title _____
Filed _____
Division Number_____

To the Commissioner of Patents:

SIR: Applicant hereby appeals to the Board of Appeals from the decision of the principal examiner finally rejecting claims _____

_____
(Signature)

43. *Disclaimer in patent.*

To the Commissioner of Patents:

Your petitioner, _____, residing at _____, in the county of _____ and State of _____, represents that he is (here state the exact interest of the disclaimant; if assignee, set out liber and page, or reel and frame, where assignment is recorded) of letters patent of the United States No. _____, granted to _____ on the _____ day of _____, 19__, for _____ and that he has reason to believe that without any deceptive intention claims of said letters patent are too broad or invalid. Your petitioner, therefore, hereby disclaims claim _____ of said patent.

Signed at _____, State of _____ this _____ day of _____, 19__.

_____
(Signature)

44. *Interference; preliminary statement of domestic inventor.*

PRELIMINARY STATEMENT OF _____

_____
v. } Interference No. _____
_____

_____
_____ } *ss:*

_____, being duly sworn (or affirmed), deposes and says that he is a party to the above indentified interference, that he made the invention set forth by the counts of the interference in the United States; that

(1) The first drawing of the invention was (give specific nature of the drawing) made on _____, 19__. A copy is attached.[1]

(2) The first written description of the invention was in the form of a (give specific nature of the document) and was made on _____, 19__. A copy is attached.[1]

(3) The invention was first disclosed to others on _____, 19__, when (give brief description of circumstances).[1]

(4) The date of the first act or acts susceptible of proof, other than acts of the character specified in (1), (2), and (3) which, if proven would establish conception of the invention, and a brief description of such act or acts are (e.g. the making of a non-operating model on _____, 19__).

(5) The invention was actually reduced to practice on _____, 19__ by (give brief description of the acts to be relied on).

(6) Active exercise of reasonable diligence toward reducing the invention to practice began on _____, 19__ and comprised (give brief description of the nature of the activity to be relied on).[1]

_____
(Signature of inventor)

Subscribed and sworn to (or affirmed) before me this ____ day of _____, 19____.

[SEAL]

_____
(Signature of notary public or officer)

_____
(Official character)

[1] If there was no act corresponding to this allegation prior to the filing date of the application, it must be so stated. Note, however, date of completion of application drawing and specification, date of disclosure to person preparing the application, and diligence in preparing the application.

45. *Interference; preliminary statement of foreign inventor.*

PRELIMINARY STATEMENT OF _____

_____ } Interference No._____
v.
_____ }

_____ } *ss:*
_____ }

_____, being duly sworn (or affirmed), deposes and says that he is a party to the above identified interference, that he made the invention set forth by the counts of the interference in _____; that

Knowledge of such invention was introduced into the United States under the following circumstances: On _____, 19____, the said _____ wrote a letter to _____, residing at _____, State of _____, describing such invention and soliciting his services in procuring a patent therefor in the United States. This letter, he is informed and believes, was received by the said _____ on _____, 19____. Also _____, 19____, he wrote a letter to the firm of _____, of _____, State of _____, describing such invention and requesting their assistance in manufacturing and putting it on the market, which letter, he is informed and believes, was received by them on _____, 19____. (If the invention has not been introduced into the United States otherwise than by the application papers, it should be so stated, and the date at which such papers were received in the United States alleged.)

The serial number and filing date of any prior application in the United States disclosing the invention set forth by the counts of the interference are Serial No. _____, filed _____.

The filing date, country, and number of any application for the same invention in a foreign country, the filing date of which may be claimed under the second paragraph of 35 U.S.C. 119, are

No. _____, filed _____ in _____.

_____
(Signature of inventor)

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 19_____.

_____
[SEAL] (Signature of notary public or officer (1)

_____
(Official character)

NOTE: (1) The authority of a foreign notary public must be authenticated by a diplomatic or consular certificate.

When acts were performed in the United States corresponding to the allegations (1) through (6), in the preliminary statement of a domestic inventor (form 44) these acts should be included by appropriate allegations in the preliminary statement of a foreign inventor.

46. *Interference; disclaimer during interference.*

_____ } Interference No. _____
v.
_____ }

In the matter of the above identified interference, under the provisions of and

for the purpose set forth in rule 262, I hereby disclaim the subject matter of all the counts of said interference. _____

(Signature of inventor)

Date _____

_____ Company, Inc., assignee of the entire right, title, and interest in the application of _____, Serial No. _____, filed _____, hereby assents to the foregoing disclaimer.

[corporate seal]

_____ Company, Inc.

By _____

(Signature of officer and nature of office)

Date _____

47. *Interference; notice of taking testimony.*

_____
v. } Interference No._____
_____

_____, 19____

_____

(Name of opposing attorney)

_____

(Address of opposing attorney)

SIR: You are hereby notified that on _____, _____, 19_____, at_____ o'clock in the forenoon at the office of _____, _____ Street, _____, _____, I shall proceed to take testimony on behalf of the party _____ in the above identified interference.

The witnesses to be examined are:

(Name of witnesses)	(Residence of witnesses)
_____	_____
_____	_____

The examination will continue from day to day until completed. You are invited to attend and cross-examine.

_____

(Signature of attorney)

Proof of Service

_____, 19____

I hereby certify that on _____, 19_____, I served a copy of the foregoing notice of taking testimony upon _____, the attorney for the party _____, by mailing a copy thereof to him at his address as set out in the notice.

_____

(Signature of attorney)

48. *Interference; form of deposition.*

IN THE UNITED STATES PATENT OFFICE

_____
v. } Interference No. _____
_____

Depositions of witnesses examined on behalf of_____, pursuant to the annexed notice, at the office of _____, _____ Street, _____, _____, on _____, _____ _____, 19_____.

Present:

_____, on behalf of_____

_____, on behalf of_____

_____, being duly sworn (or affirmed) deposes and says, in answer to interrogatories proposed to him by_____, counsel for _____, as follows:

Q. 1. What is your name, age, occupation, and residence?

A. My name is _____; I am_____ years of age; I am a manufacturer of _____, and reside at _____, in the State of _____.

Q. 2. etc. _____

_____

And in answer to cross-interrogatories proposed to him by_____, counsel for _____, he says:

X Q. 1. _____?

A. _____

_____

(Signature)

49. *Interference; certificate of officer.*

I, _____, a notary public within and for the county of _____ and State of _____ (or other officer, as the case may be), do hereby certify that the foregoing depositions of _____ and _____ were taken on behalf of _____ in pursuance of the notice hereto annexed, before me, at the office of _____, _____ Street, in the city of _____, and said county, on the _____ day (or days) of _____, 19____; that said witnesses were by me duly sworn (or affirmed) before the commencement of their testimony; that the testimony of said witnesses was written out by myself (or by _____ _____ in my presence); that the opposing party, _____ _____, was present (or absent or represented by counsel) during the taking of said testimony; that said testimony was taken at the aforementioned place and was commenced at ____ o'clock ____, on the _____ of _____, 19____, and was continued pursuant to adjournment on the _____, _____ (etc.) and was concluded on the _____ day of _____, 19____, at ____ o'clock ____; that the depositions were read by, or to, each witness before he signed the same and that each witness signed the same in my presence; that I am not related to or employed by either of the parties, or their attorneys or agents, or interested directly or indirectly, in the matter in controversy, either as counsel, attorney, agent or otherwise. (If any of the foregoing requirements are waived, the certificate shall so state.)

In testimony whereof I have hereunto set my hand and affixed my seal of office at _____, in said county, this _____ day of _____, 19____.

_____

(Signature of notary public or officer)

[SEAL]

_____

(Official character)

NOTE: The notary public or other officer will then append to the depositions the notice under which it is taken and will seal up all the evidence, notices, and paper exhibits and direct them to the Commissioner of Patents, placing upon the envelope a certificate in substance as follows:

I hereby certify that the within depositions of _____ and _____, relating to the matter of Interference No. _____, _____ v. _____ were taken, sealed up, and addressed to the Commissioner of Patents by me this _____ day of _____, 19____.

_____

(Signature of notary public or officer)

[SEAL]

_____

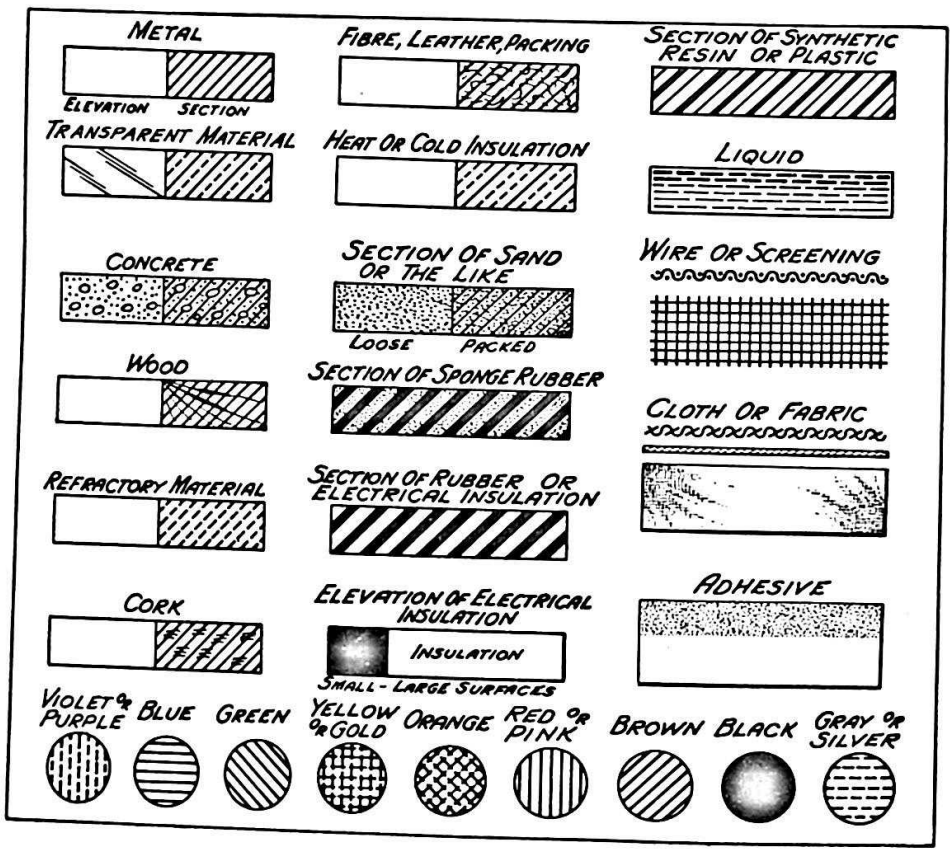
(Official character)

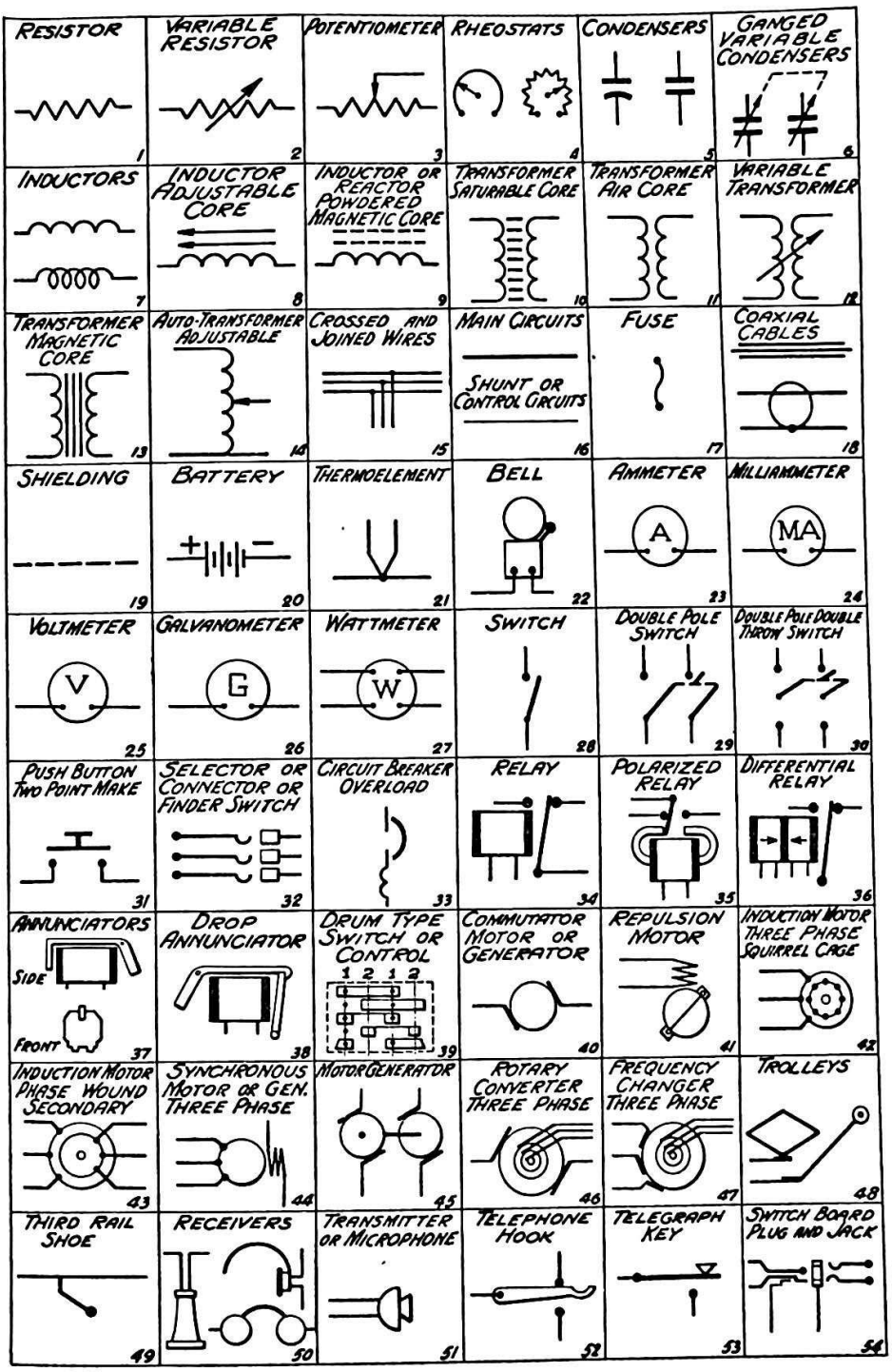
SYMBOLS FOR DRAFTSMEN.

Rule 84(g) states that graphical symbols for conventional elements may be used on the drawing when appropriate, subject to approval by the Office. The symbols and other conventional devices which follow have been and are approved for such use.

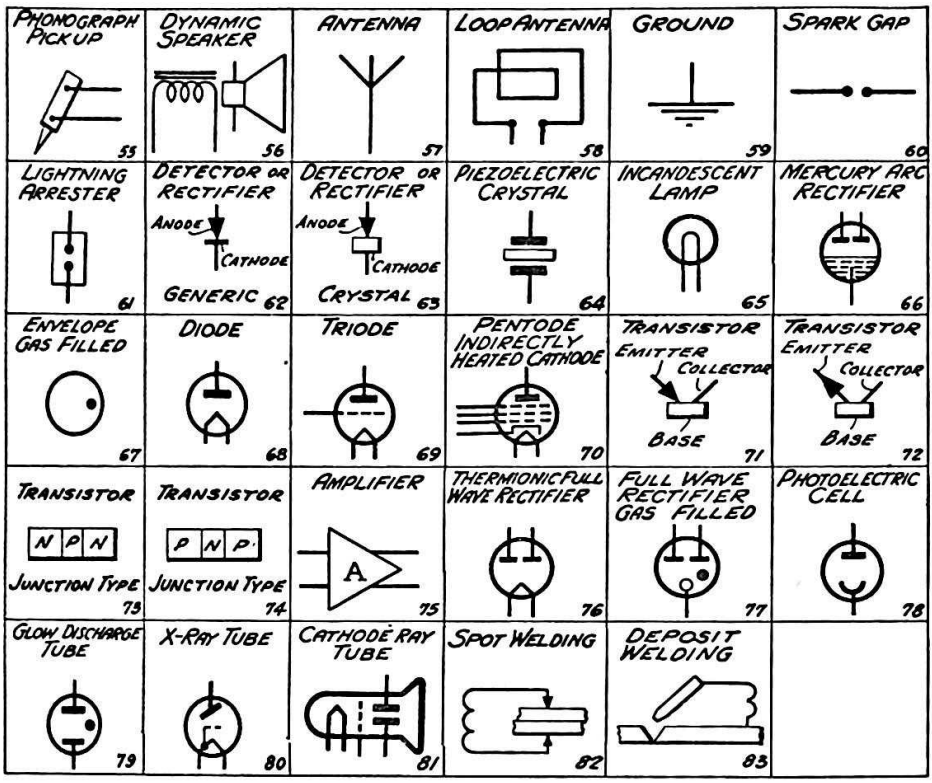
NOTES: This collection does not purport to be exhaustive, other standard and commonly used symbols will also be acceptable provided they are clearly understood, are adequately identified in the specification as filed, and do not create confusion with other symbols used in patent drawings. In general, in lieu of a symbol, a conventional element, combination or circuit may be shown by an appropriately labeled rectangle, square, or circle; abbreviations should not be used unless their meaning is evident and not confusing with the abbreviations used in the suggested symbols. In the electrical symbols an arrow through an element indicates variability thereof, see for example symbols 2, 6, 12; dotted line connection of arrows indicates ganging thereof, see symbol 6; inherent property (as resistance) may be indicated by showing symbol (for resistor) in dotted lines.

MATERIALS, ETC.

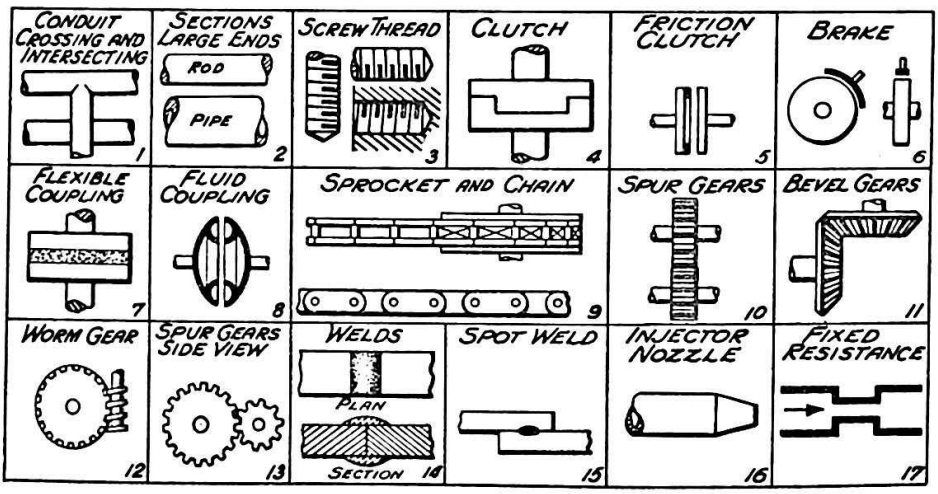


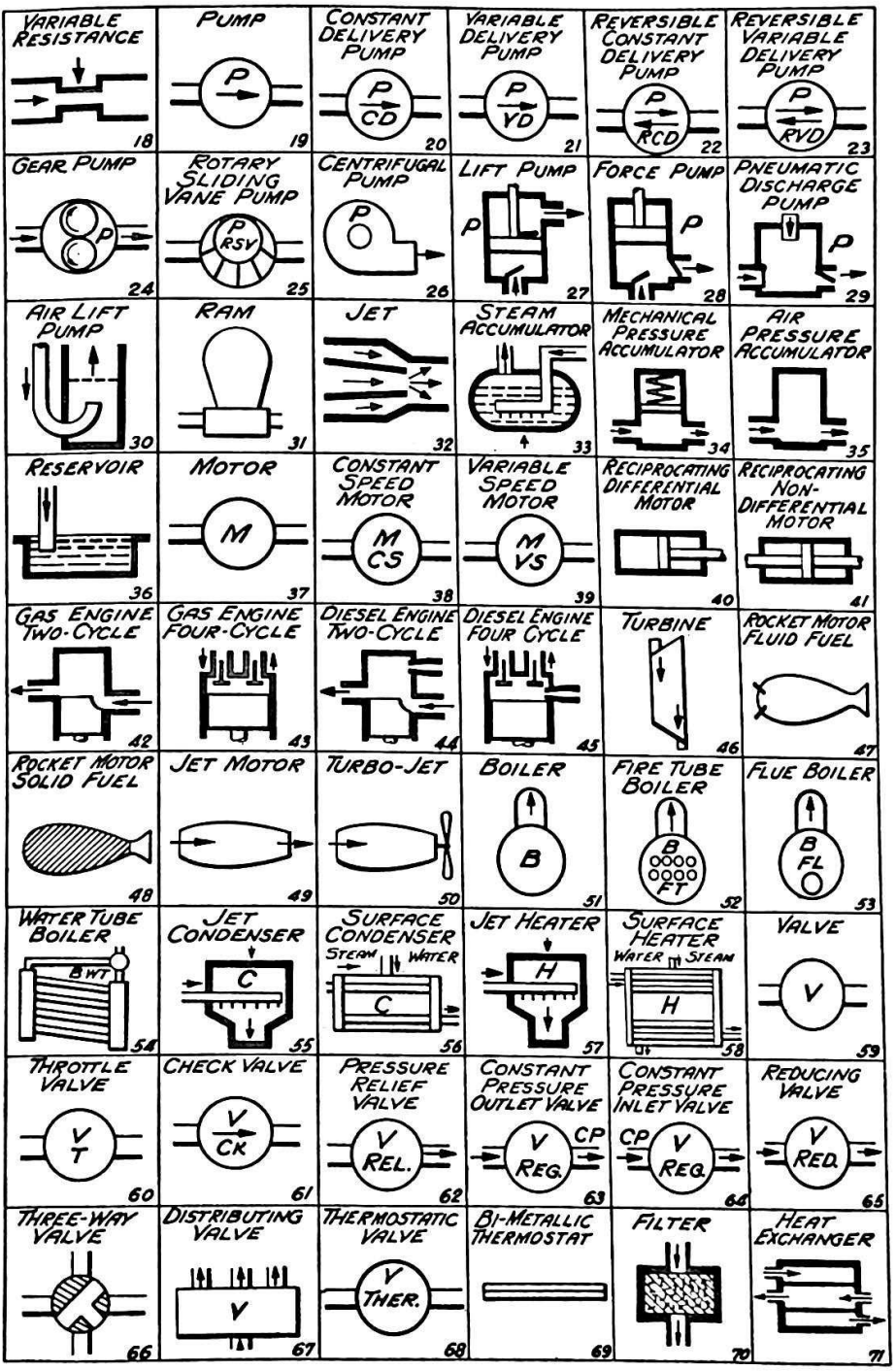

RESISTOR
1
VARIABLE RESISTOR
2
POTENTIOMETER
3
RHEOSTATS
4
CONDENSERS
5
GANGED VARIABLE CONDENSERS
6
INDUCTORS
7
INDUCTOR ADJUSTABLE CORE
8
INDUCTOR OR REACTOR POWDERED MAGNETIC CORE
9
TRANSFORMER SATURABLE CORE
10
TRANSFORMER AIR CORE
11
VARIABLE TRANSFORMER
12
TRANSFORMER MAGNETIC CORE
13
AUTO-TRANSFORMER ADJUSTABLE
14
CROSSED AND JOINED WIRES
15
MAIN CIRCUITS
SHUNT OR CONTROL CIRCUITS
16
FUSE
17
COAXIAL CABLES
18
SHIELDING
19
BATTERY
20
THERMOELEMENT
21
BELL
22
AMMETER
A
23
MILLIAMMETER
MA
24
VOLTMETER
V
25
GALVANOMETER
G
26
WATTMETER
W
27
SWITCH
28
DOUBLE POLE SWITCH
29
DOUBLE POLE DOUBLE THROW SWITCH
30
PUSH BUTTON TWO POINT MAKE
31
SELECTOR OR CONNECTOR OR FINDER SWITCH
32
CIRCUIT BREAKER OVERLOAD
33
RELAY
34
POLARIZED RELAY
35
DIFFERENTIAL RELAY
36
ANNUNCIATORS
SIDE
FRONT
37
DROP ANNUNCIATOR
38
DRUM TYPE SWITCH OR CONTROL
1 2 1 2
39
COMMUTATOR MOTOR OR GENERATOR
40
REPULSION MOTOR
41
INDUCTION MOTOR THREE PHASE SQUIRREL CAGE
42
INDUCTION MOTOR PHASE WOUND SECONDARY
43
SYNCHRONOUS MOTOR OR GEN. THREE PHASE
44
MOTOR GENERATOR
45
ROTARY CONVERTER THREE PHASE
46
FREQUENCY CHANGER THREE PHASE
47
TROLLEYS
48
THIRD RAIL SHOE
49
RECEIVERS
50
TRANSMITTER OR MICROPHONE
51
TELEPHONE HOOK
52
TELEGRAPH KEY
53
SWITCH BOARD PLUG AND JACK
54

Electrical Symbols - continued



Mechanical Symbols




VARIABLE RESISTANCE
18
PUMP
P
19
CONSTANT DELIVERY PUMP
P
CD
20
VARIABLE DELIVERY PUMP
P
VD
21
REVERSIBLE CONSTANT DELIVERY PUMP
P
RCD
22
REVERSIBLE VARIABLE DELIVERY PUMP
P
RVD
23
GEAR PUMP
P
24
ROTARY SLIDING VANE PUMP
P
RSV
25
CENTRIFUGAL PUMP
P
26
LIFT PUMP
P
27
FORCE PUMP
P
28
PNEUMATIC DISCHARGE PUMP
P
29
AIR LIFT PUMP
30
RAM
31
JET
32
STEAM ACCUMULATOR
33
MECHANICAL PRESSURE ACCUMULATOR
34
AIR PRESSURE ACCUMULATOR
35
RESERVOIR
36
MOTOR
M
37
CONSTANT SPEED MOTOR
M
CS
38
VARIABLE SPEED MOTOR
M
VS
39
RECIPROCATING DIFFERENTIAL MOTOR
40
RECIPROCATING NON-DIFFERENTIAL MOTOR
41
GAS ENGINE TWO-CYCLE
42
GAS ENGINE FOUR-CYCLE
43
DIESEL ENGINE TWO-CYCLE
44
DIESEL ENGINE FOUR CYCLE
45
TURBINE
46
ROCKET MOTOR FLUID FUEL
47
ROCKET MOTOR SOLID FUEL
48
JET MOTOR
49
TURBO-JET
50
BOILER
B
51
FIRE TUBE BOILER
B
FT
52
FLUE BOILER
B
FL
53
WATER TUBE BOILER
B WT
54
JET CONDENSER
C
55
SURFACE CONDENSER
STEAM
WATER
C
56
JET HEATER
H
57
SURFACE HEATER
WATER
STEAM
H
58
VALVE
V
59
THROTTLE VALVE
V
T
60
CHECK VALVE
V
CK
61
PRESSURE RELIEF VALVE
V
REL.
62
CONSTANT PRESSURE OUTLET VALVE
V
REG.
CP
63
CONSTANT PRESSURE INLET VALVE
CP
V
REG.
64
REDUCING VALVE
V
RED.
65
THREE-WAY VALVE
66
DISTRIBUTING VALVE
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67
THERMOSTATIC VALVE
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THER.
68
BI-METALLIC THERMOSTAT
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FILTER
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HEAT EXCHANGER
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SECRECY OF CERTAIN INVENTIONS
AND
LICENSES TO FILE APPLICATIONS IN FOREIGN COUNTRIES

The following regulations relating to the secrecy of certain inventions and licenses to file applications in foreign countries, have been established under authority of sections 6 and 188 of title 35, United States Code, as enacted July 19, 1952, Public Law 593, chapter 950, 66 Stat. 792; they interpret or apply sections 181 to 188 of title 35.

These regulations were initially published in the Federal Register for Feburary 20, 1953, 18 F.R. 1011, and amendments at subsequent times. They form part 5 of title 37 of the Code of Federal Regulations.

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SECRECY ORDERS

5.1 Defense inspection of certain applications. In accordance with the provisions of 35 U.S.C., section 181, applications for patent containing subject matter the disclosure of which might be detrimental to the national security are made available for inspection by defense agencies as specified in said section. Only applications obviously relating to national security, and applications within fields indicated to the Patent Office by the defense agencies as so related, are made available. Such inspection must be at the Patent Office and by responsible representatives of the agency who are required to sign a dated acknowledgement of such access accepting the condition that information obtained from the inspection will be used for no other purpose than in the administration of sections 181–188 of Title 35, U.S. Code. Applications relating to atomic energy are made available to the Atomic Energy Commission as specified in rule 14.

5.2 Secrecy order. (a) When notified by the chief officer of a defense agency that publication or disclosure of the invention by the granting of a patent would be detrimental to the national security, an order that the invention be kept secret will be issued by the Commissioner of Patents.

(b) The secrecy order is directed to the applicant, his successors, any and all assignees, and their legal representatives; hereinafter designated as principals.

(c) A copy of the secrecy order will be forwarded to each principal of record in the application and will be accompanied by a receipt, identifying the particular principal, to be signed and returned.

(d) The secrecy order is directed to the subject matter of the application. Where any other application in which a secrecy order has not been issued discloses a significant part of the subject matter of the application under secrecy order, the other application and the common subject matter should be called to the attention of the Patent Office. Such a notice may include any material such as would be urged in a petition to rescind secrecy orders on either of the applications.

5.3 Prosecution of application under secrecy order; withholding patent. Unless specifically ordered otherwise, action on the application by the Office and prosecution by the applicant will proceed during the time an application is under secrecy order to the point indicated in this section:

(a) Applications under secrecy order which come to a final rejection must be appealed or otherwise prosecuted to avoid abandonment. Appeals in such cases must be completed by the applicant but unless

otherwise specifically ordered by the Commissioner will not be set for hearing until the secrecy order is removed.

(b) Interferences may be declared involving an application under secrecy order but unless otherwise specifically ordered or permitted such interferences are suspended after the approval of the preliminary statements.

(c) When the application is found to be in condition for allowance except for the secrecy order, the applicant and the agency which caused the secrecy order to be issued will be notified. This notice (which is not a notice of allowance under rule 311) does not require response by the applicant and places the application in a condition of suspension until the secrecy order is removed. When the secrecy order is removed the Patent Office will issue a notice of allowance under rule 311, or take such other action as may then be warranted.

5.4 Petition for rescission of secrecy order. (a) A petition for rescission or removal of a secrecy order may be filed by, or on behalf of, any principal affected thereby. Such petition may be in letter form, and it must be in duplicate. The petition must be accompanied by one copy of the application or an order for the same, unless a showing is made that such a copy has already been furnished, to the department or agency which caused the secrecy order to be issued.

(b) The petition must recite any and all facts that purport to render the order ineffectual or futile if this is the basis of the petition. When prior publications or patents are alleged the petition must give complete data as to such publications or patents and should be accompanied by copies thereof.

(c) The petition must identify any contract between the Government and any of the principals, under which the subject matter of the application or any significant part thereof was developed, or to which the subject matter is otherwise related. If there is no such contract, the petition must so state.

(d) Unless based upon facts of public record, the petition must be verified.

5.5 Permit to disclose or modification of secrecy order. (a) Consent to disclosure, or to the filing of an application abroad, as provided in 35 U.S.C. 182, shall be made by a "permit" or "modification" of the secrecy order.

(b) Petitions for a permit or modification must fully recite the reason or purpose for the proposed disclosure. Where any proposed disclosee is known to be cleared by a defense agency to receive classified information, adequate explanation of such clearance should be made in the petition including the name of the agency or department granting the clearance and the date and degree thereof. The petition must be filed in duplicate and be accompanied by one copy of the ap-

plication or an order for the same, unless a showing is made that such a copy has already been furnished to the department or agency which caused the secrecy order to be issued.

(c) In a petition for modification of a secrecy order to permit filing abroad, all countries in which it is proposed to file must be made known, as well as all attorneys, agents and others to whom the material will be consigned prior to being lodged in the foreign patent office. The petition should include a statement vouching for the loyalty and integrity of the proposed disclosees and where their clearance status in this or the foreign country is known all details should be given.

(d) Consent to the disclosure of subject matter from one application under secrecy order may be deemed to be consent to the disclosure of common subject matter in other applications under secrecy order so long as not taken out of context in a manner disclosing material beyond the modification granted in the first application.

(e) The permit or modification may contain conditions and limitations.

5.6 General and group permits. (a) Organizations requiring consent for disclosure of applications under secrecy order to persons or organizations in connection with repeated routine operation may petition for such consent in the form of a general permit. To be successful such petitions must ordinarily recite the security clearance status of the disclosees as sufficient for the highest classification of material that may be involved.

(b) Where identical disclosees and circumstances are involved, and consent is desired for the disclosure of each of a specific list of applications, the petitions may be joined.

5.7 Compensation. Any request for compensation as provided in 35 U.S.C. 183 must not be made to the Patent Office but should be made directly to the department or agency which caused the secrecy order to be issued. Upon written request persons having a right to such information will be informed as to the department or agency which caused the secrecy order to be issued.

5.8 Appeal to Secretary. Appeal to the Secretary of Commerce, as provided by 35 U.S.C. 181, from a secrecy order cannot be taken until after a petition for recission of the secrecy order has been made and denied. Appeal must be taken within 60 days from the date of the denial, and the party appealing, as well as the department or agency which caused the order to be issued will be notified of the time and place of hearing. The appeal will be heard and decided by the Secretary or such officer or officers as he may designate.

LICENSES FOR FOREIGN FILING

5.11 License for filing application in foreign country. (a) When no secrecy order has been issued under section 5.2, a license from the Commissioner of Patents under 35 U.S.C. 184 is required before filing any application for patent or for the registration of a utility model, industrial design, or model, in a foreign country, or causing or authorizing such filing, with respect to an invention made in the United States, if:

(1) The foreign application is to be filed or its filing caused or authorized before an application for patent is filed in the United States, or

(2) The foreign application is to be filed, or its filing caused or authorized, prior to the expiration of six months from the filing of the application in the United States.

(b) When there is no secrecy order in effect, a license under 35 U.S.C. 184 is not required if:

(1) The invention was not made in the United States, or

(2) The foreign application is to be filed, or its filing caused or authorized, after the expiration of six months from the filing of the application in the United States.

(c) When a secrecy order has been issued under section 5.2, an application cannot be filed in a foreign country in any case except in accordance with section 5.5.

5.12 Petition for license. Petitions for license under 35 U.S.C. 184 may be presented in letter form and should include petitioner's address, and full instructions for delivery of the requested license when it is to be delivered to other than the petitioner.

5.13 Petition for license; no corresponding U.S. application. Where there is no corresponding United States application, the petition for license must be accompanied by a legible copy of the material upon which license is desired. This copy will be retained as the measure of the license granted. For assistance in the identification of the subject matter of each license so issued, it is suggested that the petition or requesting letter be submitted in duplicate and provide a title and other description of the material. The duplicate copy of the petition will be returned with the license or other action on the petition.

5.14 Petition for license; corresponding U.S. application. (a) Where there is a corresponding United States application on file the petition for license must identify this application by serial number, filing date, inventor, and title, and a copy of the material upon which the license is desired is not required. The subject matter licensed will be measured by the disclosure of the United States application.

Where the title is not descriptive, and the subject matter is clearly of no interest from a security standpoint, time may be saved by a short statement in the petition as to the nature of the invention.

(b) Two or more United States applications should not be referred to the same petition for license unless they are to be combined in the foreign application, in which event the petition should so state and the identification of each United States application should be in separate paragraphs.

(c) Where the application to be filed abroad contains matter not disclosed in the United States application or applications, including the case where the combining of two or more United States applications introduces subject matter not disclosed in any of them, a copy of the application as it is to be filed in the foreign country must be furnished with the petition. If, however, all new matter in the application to be filed is readily identifiable, the new matter may be submitted in detail and the remainder by reference to the pertinent United States application or applications.

5.15 Scope of license. (a) A license to file an application in a foreign country, when granted, includes authority to forward all duplicate and formal papers to the foreign country and to make amendments and take any action in the prosecution of the application, provided subject matter additional to that covered by the license is not involved. In those cases in which no license is required to file the foreign application, no license is required to file papers in connection with the prosecution of the foreign application not involving disclosure of additional subject matter. Any paper filed abroad following the filing of a foreign application, which involves the disclosure of additional subject matter must be separately licensed in the same manner as an application.

(b) Licenses separately granted in connection with two or more United States applications may be exercised by combining or dividing the disclosures, as desired, provided additional subject matter is not introduced.

(c) A license does not apply to acts done before the license was granted unless the petition specifically requests and describes the particular acts and the license is worded to apply to such acts.

5.16 Effect of secrecy order. Any license obtained under 35 U.S.C. 184 is ineffective if the subject matter is under a secrecy order, and a secrecy order prohibits the exercise of or any further action under the license unless separately specifically authorized by a modification of the secrecy order in accordance with section 5.5.

5.17 Who may use license. Licenses may be used by anyone interested in the foreign filing for or on behalf of the inventor or his assigns.

5.18 Arms, ammunition, and implements of war. (a) The exportation of technical data relating to arms, ammunition, and implements of war is subject to the licensing jurisdiction of the Department of State, as set forth in its pertinent regulations (22 C.F.R. 121.1 to 128.2). The articles designated as arms, ammunition, and implements of war are enumerated in 22 C.F.R. 121.21, this list being known as the United States Munitions List. The exportation of technical data relating to articles on this list with any application for foreign patent is generally subject to the licensing requirement of the Secretary of State, 22 C.F.R. 125.13.

(b) When a petition for license is received by the Commissioner, during the time in which a license from the Commissioner is required (see 5.11a), and it is determined that the subject matter involved also falls under the jurisdiction of the Secretary of State, the applicant will be so notified and given whatever information may be deemed appropriate. The petition for license will be referred by the Patent Office to the Department of State for its action. Action by the Patent Office on the petition will be deferred pending the Department of State consideration.

(c) If an application for patent for subject matter on the Munitions List (22 C.F.R. 121.21) is subject to a secrecy order under section 5.2 and a petition under section 5.5 for a modification of the secrecy order to permit filing abroad is made, compliance with Department of State regulation 22 C.F.R. 125.4 is also required.

(d) When no license from the Commissioner is required, see section 5.11(b), relating to the exportation of such technical data with applications for foreign patents, the specific provisions of the regulations issued by the Secretary of State cited above must be complied with.

GENERAL

5.21 Effect of modification rescission or license. Any consent, rescission or license under the provisions of this part does not lessen the responsibilities of the principals in respect to any Government contract or the requirements of any other Government agency.

5.22 Papers in English language. All papers submitted in connection with petitions must be in the English language, or be accompanied by an English translation and a translator's certificate as to the true, faithful and exact character of the translation.

5.23 Correspondence. All correspondence in connection with this part, including petitions, should be addressed to "Commissioner of Patents (attention Patent Security Division), Washington, D.C., 20231."

35 U.S.C. 181. Secrecy of certain inventions and withholding of patent. Whenever publication or disclosure by the grant of a patent on an invention in

which the Government has a property interest might, in the opinion of the head of the interested Government agency, be detrimental to the national security, the Commissioner upon being so notified shall order that the invention be kept secret and shall withhold the grant of a patent therefor under the conditions set forth hereinafter.

Whenever the publication or disclosure of an invention by the granting of a patent, in which the Government does not have a property interest, might, in the opinion of the Commissioner, be detrimental to the national security, he shall make the application for patent in which such invention is disclosed available for inspection to the Atomic Energy Commission, the Secretary of Defense, and the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States.

Each individual to whom the application is disclosed shall sign a dated acknowledgement thereof, which acknowledgement shall be entered in the file of the application. If, in the opinion of the Atomic Energy Commission, the Secretary of a Defense Department, or the chief officer of another department or agency so designated, the publication or disclosure of the invention by the granting of a patent therefor would be detrimental to the national security, the Atomic Energy Commission, the Secretary of a Defense Department, or such other chief officer shall notify the Commissioner and the Commissioner shall order that the invention be kept secret and shall withhold the grant of a patent for such period as the national interest requires, and notify the applicant thereof. Upon proper showing by the head of the department or agency who caused the secrecy order to be issued that the examination of the application might jeopardize the national interest, the Commissioner shall thereupon maintain the application in a sealed condition and notify the applicant thereof. The owner of an application which has been placed under a secrecy order shall have a right to appeal from the order to the Secretary of Commerce under rules prescribed by him.

An invention shall not be ordered kept secret and the grant of a patent withheld for a period of more than one year. The Commissioner shall renew the order at the end thereof, or at the end of any renewal period, for additional periods of one year upon notification by the head of the department or the chief officer of the agency who caused the order to be issued that an affirmative determination has been made that the national interest continues so to require. An order in effect, or issued, during a time when the United States is at war, shall remain in effect for the duration of hostilities and one year following cessation of hostilities. An order in effect, or issued, during a national emergency declared by the President shall remain in effect for the duration of the national emergency and six months thereafter. The Commissioner may rescind any order upon notification by the heads of the departments and the chief officers of the agencies who caused the order to be issued that the publication or disclosure of the invention is no longer deemed detrimental to the national security.

35 U.S.C. 182. Abandonment of invention for unauthorized disclosure. The invention disclosed in an application for patent subject to an order made pursuant to section 181 of this title may be held abandoned upon its being established by the Commissioner that in violation of said order the invention has been published or disclosed or that an application for a patent therefor has been filed in a foreign country by the inventor, his successors, assigns, or legal representatives, or anyone in privity with him or them, without the consent of the Commissioner. The abandonment shall be held to have occurred as of the time of violation. The consent of the Commissioner shall not be given without the concurrence of the heads of the departments and the chief officers of the agencies who caused the order to be issued. A holding of abandonment shall constitute forfeiture by the applicant, his successors, assigns, or legal repre-

sentatives, or anyone in privity with him or them, of all claims against the United States based upon such invention.

35 U.S.C. 183. Right to compensation. An applicant, his successors, assigns, or legal representatives, whose patent is withheld as herein provided, shall have the right, beginning at the date the applicant is notified that, except for such order, his application is otherwise in condition for allowance, or February 1, 1952, which ever is later, and ending six years after a patent is issued thereon, to apply to the head of any department or agency who caused the order to be issued for compensation for the damage caused by the order of secrecy and/or for the use of the invention by the Government, resulting from his disclosure. The right to compensation for use shall begin on the date of the first use of the invention by the Government. The head of the department or agency is authorized, upon the presentation of a claim, to enter into an agreement with the applicant, his successors, assigns, or legal representatives, in full settlement for the damage and/or use. This settlement agreement shall be conclusive for all purposes not withstanding any other provision of law to the contrary. If full settlement of the claim cannot be effected, the head of the department or agency may award and pay to such applicant, his successors, assigns, or legal representatives, a sum not exceeding 75 per centum of the sum which the head of the department or agency considers just compensation for the damage and/or use. A claimant may bring suit against the United States in the Court of Claims or in the District Court of the United States for the district in which such claimant is a resident for an amount which when added to the award shall constitute just compensation for the damage and/or use of the invention by the Government. The owner of any patent issued upon an application that was subject to a secrecy order issued pursuant to section 181 of this title, who did not apply for compensation as above provided, shall have the right, after the date of issuance of such patent, to bring suit in the Court of Claims for just compensation for the damage caused by reason of the order of secrecy and/or use by the Government of the invention resulting from his disclosure. The right to compensation for use shall begin on the date of the first use of the invention by the Government. In a suit under the provisions of this section the United States may avail itself of all defenses it may plead in an action under section 1498 of title 28. This section shall not confer a right of action on any one or his successors, assigns, or legal representatives who, while in the full-time employment or service of the United States, discovered, invented, or developed the invention on which the claim is based.

35 U.S.C. 184. Filing of application in foreign country. Except when authorized by a license obtained from the Commissioner a person shall not file or cause or authorize to be filed in any foreign country prior to six months after filing in the United States an application for patent or for the registration of a utility model, industrial design, or model in respect of an invention made in this country. A license shall not be granted with respect to an invention subject to an order issued by the Commissioner pursuant to section 181 of this title without the concurrence of the head of the departments and the chief officers of the agencies who caused the order to be issued. The license may be granted retroactively where an application has been inadvertently filed abroad and the application does not disclose an invention within the scope of section 181 of this title.

The term "application" when used in this chapter includes applications and any modifications, amendments, or supplements thereto, or divisions thereof.

35 U.S.C. 185. Patent barred for filing without license. Notwithstanding any other provisions of law any person, and his successors, assigns, or legal representatives, shall not receive a United States patent for an invention if that person, or his successors, assigns, or legal representatives shall, without procuring the license prescribed in section 184 of this title, have made, or consented to or assisted another's making, application in a foreign country for a patent

or for the registration of a utility model, industrial design, or model in respect of the invention. A United States patent issued to such person, his successors, assigns, or legal representatives shall be invalid.

35 U.S.C. 186. Penalty. Whoever, during the period or periods of time an invention has been ordered to be kept secret and the grant of a patent thereon withheld pursuant to section 181 of this title, shall, with knowledge of such order and without due authorization, willfully publish or disclose or authorize or cause to be published or disclosed the invention, or material information with respect thereto, or whoever, in violation of the provisions of section 184 of this title, shall file or cause or authorize to be filed in any foreign country an application for patent or for the registration of a utility model, industrial design, or model in respect of any invention made in the United States, shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than two years, or both.

35 U.S.C. 187. Nonapplicability to certain persons. The prohibitions and penalties of this chapter shall not apply to any officer or agent of the United States acting within the scope of his authority, nor to any person acting upon his written instructions or permission.

35 U.S.C. 188. Rules and regulations, delegation of power. The Atomic Energy Commission, the Secretary of a defense department, the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States, and the Secretary of Commerce, may separately issue rules and regulations to enable the respective department or agency to carry out the provisions of this chapter, and may delegate any power conferred by this chapter.

42 U.S.C. 2457. Property rights in inventions. (National Aeronautics and Space Administration.)

* * * * *

(i) *Administration as defense agency.* The Administration shall be considered a defense agency of the United States for the purpose of chapter 17 of Title 35.

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NOTE: In addition to page numbers, references are also given to the rule numbers, to statutes printed in the text identified by section number in the case of title 35 of the United States Code, and to the paragraphs of the Introduction.

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